



**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**POST PROFESSIONAL QUALIFICATION**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 22 April 2026. Afternoon Paper.**

**Time Allowed: 3 hours.**

**This paper has two sections. SECTION I consists of fifty (50) Multiple Choice Questions carrying fifty (50) marks. SECTION II has four (4) structured questions carrying fifty (50) marks. Answer ALL questions. Marks allocated to each question are indicated at the end of the question.**

**SECTION I (50 MARKS)**

1. During a fraud trial, the court considers whether bank records tendered by the prosecution are relevant to the issue before admitting them. Which one of the following principles is the court applying?
  - A. Authentication
  - B. Privilege
  - C. Relevance
  - D. Disclosure

(1 mark)
  
2. Investigators discover unexplained deposits in a suspect's bank account shortly after suspicious procurement payments were made. No witness observed the payment being received. Which one of the following types of evidence do the deposits represent?
  - A. Direct evidence
  - B. Circumstantial evidence
  - C. Demonstrative evidence
  - D. Character evidence

(1 mark)
  
3. In a corruption prosecution, the defence argues that the accused should not be required to prove innocence. Which one of the following parties bears the burden of proof in criminal proceedings?
  - A. Defence counsel
  - B. Trial judge
  - C. Prosecution
  - D. Investigating officer

(1 mark)
  
4. A judge directs the jury that before convicting the accused, they must be firmly convinced of the accused's guilt, leaving no real uncertainty based on reason and evidence. Which standard of proof is being applied?
  - A. Balance of probability
  - B. Beyond reasonable doubt
  - C. Reasonable suspicion
  - D. Preponderance of evidence

(1 mark)

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5. Evidence produced by the defence showing the accused was abroad when a fraudulent transfer occurred primarily constitutes which one of the following evidence?  
A. Inculpatory evidence  
B. Corroborative evidence  
C. Exculpatory evidence  
D. Demonstrative evidence (1 mark)
6. Before trial the prosecution and defence exchange relevant documents to the facts such as forensic audit reports and exhibits. Which one of the following stages of litigation does this occur?  
A. Pre-trial  
B. Sentencing  
C. Trial  
D. Examination (1 mark)
7. A forensic accountant explains complex financial transactions to assist the court in understanding a fraud scheme. Which one of the following categories of witness is involved?  
A. Lay witness  
B. Expert witness  
C. Hostile witness  
D. Character witness (1 mark)
8. Defence counsel questions a prosecution witness to challenge inconsistencies in testimony. Which one of the following forms of examination is taking place?  
A. Direct examination  
B. Preliminary examination  
C. Re-examination  
D. Cross-examination (1 mark)
9. A forged cheque is produced in court to prove fraudulent payment. Which one of the following forms of evidence is presented?  
A. Documentary evidence  
B. Real evidence  
C. Testimonial evidence  
D. Demonstrative evidence (1 mark)
10. Which one of the following laws in Kenya sets the rules of admissibility of evidence in a court of law?  
A. Evidence Act  
B. Penal Code  
C. Civil Procedure Act  
D. Criminal Procedure Code (1 mark)
11. During trial, a witness describes events they personally observed during a fraudulent transaction. Which one of the following types of evidence is being provided?  
A. Circumstantial evidence  
B. Eye witness testimonial evidence  
C. Documentary evidence  
D. Demonstrative evidence (1 mark)

12. A prosecutor presents a chart showing the movement of funds between several bank accounts to illustrate a fraud scheme. Which one of the following forms of evidence was presented?
- A. Demonstrative evidence
  - B. Testimonial evidence
  - C. Real evidence
  - D. Character evidence
- (1 mark)
13. A defence lawyer insists that the original contract must be produced instead of a copy because its contents are disputed. Which one of the following rules of evidence is in question?
- A. Hearsay rule
  - B. Privilege rule
  - C. Authentication rule
  - D. Best evidence rule
- (1 mark)
14. Questioning of a witness by the party that called the witness during trial is referred to as \_\_\_\_\_.
- A. cross-examination
  - B. direct examination
  - C. re-examination
  - D. deposition
- (1 mark)
15. In civil fraud litigation in Kenya the plaintiff must prove the case on \_\_\_\_\_.
- A. beyond reasonable doubt
  - B. absolute certainty
  - C. higher balance of probability
  - D. more probable than not
- (1 mark)
16. Evidence that is presented by an eye witness in a court of law is which one of the following types of evidence?
- A. Circumstantial evidence
  - B. Direct evidence
  - C. Testimonial evidence
  - D. Corroborative evidence
- (1 mark)
17. The practice of questioning either the knowledge or credibility of a witness in a court of law is known as \_\_\_\_\_.
- A. cross examination
  - B. oral examination
  - C. direct examination
  - D. impeachment
- (1 mark)
18. Producing a document in court by a person who has a personal knowledge of the document is referred to as \_\_\_\_\_.
- A. authentication of the document
  - B. verifying the document
  - C. certifying the document
  - D. confirming the contents of the document
- (1 mark)

19. Documentation showing the chronological control and handling of evidence from seizure to court presentation is called \_\_\_\_\_.
- A. an evidence register
  - B. disclosure statement
  - C. chain of custody
  - D. exhibit schedule
- (1 mark)
20. In adversarial legal systems, responsibility for presenting evidence lies with \_\_\_\_\_.
- A. the judge
  - B. the parties to the case
  - C. presiding judge
  - D. investigators
- (1 mark)
21. During investigation in procurement fraud, forensic auditors found several payments for goods not supplied to a shell company controlled by the suspect. Which one of the following **BEST** describes the evidence collected?
- A. Circumstantial evidence
  - B. Direct evidence
  - C. Demonstrative evidence
  - D. Character evidence
- (1 mark)
22. A witness refuses to answer certain questions because the answer to the question would support the opposing side. Which one of the following **BEST** describes the witness character in court?
- A. Eye witness
  - B. Competent witness
  - C. Incompetent witness
  - D. A hostile witness
- (1 mark)
23. During trial, the court rejects a document because it cannot be proved that the document is what it purports to be. Which one of the following requirements was **NOT** met?
- A. Authentication
  - B. Relevance
  - C. Corroboration
  - D. Disclosure
- (1 mark)
24. An investigator reconstructs a visual timeline showing the flow of transactions to help the court understand how a fraud occurred. Which one of the following forms of evidence is represented?
- A. Character evidence
  - B. Testimonial evidence
  - C. Demonstrative evidence
  - D. Direct evidence
- (1 mark)
25. A defence lawyer questions a witness in order to expose contradictions in earlier statements. The main objective of this process is to \_\_\_\_\_.
- A. strengthen testimony
  - B. test credibility
  - C. introduce documentary evidence
  - D. record statements
- (1 mark)

26. Which one of the following statements **BEST** explains the concept of “chain of custody”?
- A. Process of presenting evidence during trial
  - B. Method of analysing evidence during investigation
  - C. Legal ownership of evidence in a case
  - D. Record of evidence handling from collection to presentation
- (1 mark)
27. Which one of the following situations is **MOST** likely to make relevant evidence inadmissible?
- A. If evidence is not reliable
  - B. If evidence is not material
  - C. If evidence is not enough
  - D. If evidence is not beyond reasonable doubts
- (1 mark)
28. A forensic investigator relies on patterns of transactions to infer fraud without direct proof. This type of evidence is **BEST** described as \_\_\_\_\_.
- A. demonstrative evidence in court
  - B. direct evidence of the fraud
  - C. testimonial evidence from witnesses
  - D. circumstantial evidence of the fraud
- (1 mark)
29. Which one of the following actions **BEST** describes the role of an expert witness in court proceedings?
- A. Determining the guilt of the accused
  - B. Presenting documentary evidence in court
  - C. Providing evidence based on technical expertise
  - D. Representing a party in the case
- (1 mark)
30. Which one of the following statements **BEST** describes the purpose of cross-examination?
- A. Clarifying issues raised during testimony
  - B. It to diminish the importance of the evidence
  - C. Introducing additional evidence to the court
  - D. Summarising the facts of the case
- (1 mark)
31. Which one of the following actions would **MOST** weaken the credibility of a witness expertise?
- A. Demonstrating knowledge of the subject matter
  - B. Producing supporting documentary evidence
  - C. Providing consistent statements in testimony
  - D. Inability to demonstrate technical expertise in the matters being litigated
- (1 mark)
32. Which one of the following statements **BEST** explains the burden of proof in criminal proceedings in civil law jurisdiction?
- A. Strict burden of proof
  - B. Prosecution burden of proof
  - C. Defendant burden proof
  - D. Beyond reasonable doubts
- (1 mark)

33. Which one of the following statements distinguishes civil proceedings from criminal proceedings in adversarial jurisdictions?
- A. The discovery of evidence
  - B. Basic principles of evidence
  - C. Burden of proof
  - D. Standard of proof required by the court
- (1 mark)
34. Which one of the following evidence is **NOT** hearsay evidence?
- A. Financial statements
  - B. Evidence given by an eyewitness
  - C. Evidence based on second-hand information
  - D. Evidence obtained through expert analysis
- (1 mark)
35. Which one of the following actions is **MOST** appropriate when handling digital evidence?
- A. Printing files and discarding originals
  - B. Sharing files among investigation teams
  - C. Preserving data using forensic methods
  - D. Editing files to improve clarity
- (1 mark)
36. Which one of the following statements **BEST** describes an exhibit in court proceedings?
- A. Document prepared during investigation
  - B. Object used to demonstrate facts
  - C. A physical item that took part in the commission of the offence
  - D. Statement made by a witness in court
- (1 mark)
37. Which one of the following statements is **ACCURATE** in regard to court witnesses in adversarial jurisdictions like Kenya?
- A. An expert witness is a court witness
  - B. A court appointed witness is a court witness
  - C. A character witness is a court witness
  - D. A witness providing testimony given from a reliable source is a court witness
- (1 mark)
38. Which one of the following actions is **MOST** likely to violate legal professional privilege?
- A. Sharing publicly available information
  - B. Presenting evidence during trial proceedings
  - C. Giving expert testimony in court
  - D. Disclosing confidential client information
- (1 mark)
39. Which one of the following statements **BEST** describes re-examination in a court process?
- A. The questioning of the witness during pre-trial
  - B. The questioning of the witness during examination in chief
  - C. The questioning of the witness by the opposing side
  - D. The questioning of the witness by the party that retained them
- (1 mark)

40. Which one of the following statements **BEST** describes the role of a judge in adversarial systems?
- A. To determine the evidence presented
  - B. To drive the discovery of evidence
  - C. To Investigate facts of the case
  - D. To question the witness
- (1 mark)
41. Which one of the following statements is **ACCURATE** in regard to admissibility of evidence in adversarial jurisdictions?
- A. All Relevant evidence is admissible in a court of law
  - B. Admissibility of evidence is a rule of evidence that sets the rules of admitting evidence in a court of law
  - C. Admissibility of evidence rule is under substantive laws
  - D. Admissibility of evidence is determined by the parties to the litigation
- (1 mark)
42. Which one of the following statements **BEST** explains the role of relevance in evidence?
- A. Guarantees admissibility of evidence
  - B. Determines credibility of the evidence
  - C. Links evidence to facts in issue
  - D. Replaces the requirement of reliability
- (1 mark)
43. Which one of the following statements is **ACCURATE** in regard to demonstrative evidence?
- A. A financial report is demonstrative evidence of the financial performance of an organisation
  - B. A CCTV camera footage is a type of demonstrative evidence
  - C. A demonstrative evidence adds weight to the real and testimonial evidence
  - D. A demonstrative evidence illustrates the existing evidence
- (1 mark)
44. Which one of the following statements is **ACCURATE** in regard to of pre-trial court process?
- A. The parties to the litigation discover evidence from each other
  - B. The pre-trial is not part of the court trial process
  - C. During Pre- trial the parties to the litigation cannot discover evidence from each other
  - D. During pre- trial the court discovers the evidence presented by the parties to the litigation
- (1 mark)
45. Which one of the following actions **BEST** describes a civil wrong?
- A. Criminal offence under statute
  - B. Breach of regulatory requirements
  - C. Dispute between private parties
  - D. Offence punishable by imprisonment
- (1 mark)
46. Which one of the following statements **BEST** describes the burden of proof in fraud civil cases?
- A. Balance of probabilities
  - B. Beyond reasonable doubt
  - C. Strict burden of proof
  - D. Both parties to the litigation have the burden of proof
- (1 mark)
47. Which one of the following scenarios **BEST** explains why evidence may be excluded?
- A. Evidence is in written form
  - B. Evidence is too detailed
  - C. Evidence is presented by a witness
  - D. Evidence lacks relevance or reliability
- (1 mark)

48. Which one of the following statements is **ACCURATE** testimonial evidence by an eye witness?
- The testimony is oral direct
  - The testimonial evidence is real
  - The testimonial evidence oral indirect
  - The testimonial is written direct
- (1 mark)
49. Which one of the following actions **BEST** explains the purpose of legal rules and procedures of determining a case in trial?
- Reducing the amount of evidence
  - Ensure fairness and justice
  - To determine guilt and innocence
  - To determine the amount of evidence
- (1 mark)
50. Which one of the following statements is **ACCURATE** in regard to role of the court of appeal in most adversarial jurisdictions?
- The factual finding of the high court and make fresh determination Review the application of the law
  - To determine factual evidence
  - To determine factual evidence and apply the law
  - To dismiss
- (1 mark)

## SECTION II (50 MARKS)

51. Fraud investigation and forensic audits are law intensive. Therefore, fraud examiners and forensic auditors must in common law jurisdictions observe strict rules of evidence for the evidence to be admissible in a court of law.

**Required:**

- Explain the concept of admissibility of evidence in criminal proceedings in adversarial jurisdiction like Kenya. (2 marks)
- Explain **THREE** reasons why relevant evidence may not be admissible in a court of law in common law jurisdictions. (6 marks)
- Discuss **THREE** rules related to reliability of evidence for evidence to be admitted in a court of law in common law jurisdictions. (6 marks)
- Explain **TWO** major differences in common law civil law jurisdictions in regard to admissibility of evidence. (4 marks)
- Identify two reasons why reliable evidence may not be admissible in a court of law. (2 marks)

**(Total: 20 marks)**

52. A fraud examiner or a forensic auditor should be familiar with the different types and forms of evidence when conducting an investigation:

**Required:**

- Explain the difference between direct evidence and circumstantial evidence. (2 marks)
- Explain two types of direct evidence and give an example for each. (6 marks)
- Discuss the difference between evidence and information and give an example for each. (6 marks)
- Identify one form of evidence that is direct evidence but is not a real(exhibit) evidence. (1 mark)

**(Total: 15 marks)**

53. Fraud examiners and forensic auditors might be required to testify in court as expert witness during a court proceeding

**Required:**

- (a) Explain how a fraud examiner can demonstrate that he/she is an expert is suitable to help the judge in interpreting the technical facts of the case to determine the evidence. (2 marks)
- (b) Explain **TWO** the difference between an expert witness statement and an eye witness statement to be used in a court of law. (4 marks)
- (c) Fraud examiners must be familiar with the standard of proof for both fraud criminal and civil trials in Kenya jurisdiction.

Explain the following in regard to standards of proof:

- (i) Beyond reasonable doubt. (2 marks)
- (ii) Balance of probability. (2 marks)

**(Total: 10 marks)**

54. (a) Identify **TWO** categories of witnesses in court proceedings in adversarial jurisdiction. (2 marks)

(b) Identify **THREE** witnesses that cannot present testimonial evidence in court. (3 marks)

**(Total: 5 marks)**

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**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 3 December 2025. Afternoon Paper.**

**Time Allowed: 3 hours.**

**This paper has two sections. SECTION I consists of fifty (50) Multiple Choice Questions carrying fifty (50) marks. SECTION II has four (4) structured questions carrying fifty (50) marks. Answer ALL questions. Marks allocated to each question are indicated at the end of the question.**

**SECTION I (50 MARKS)**

1. Which one of the following statements is **NOT** accurate in regard to who can provide expert testimony in court of law in securities fraud in Kenya jurisdiction?  
A. A qualified accountant  
B. A certified fraud examiner  
C. A certified financial analyst  
D. A certified internal auditor (1 mark)
2. Which one of the following statements is **NOT** accurate in regard to civil action and criminal prosecution in a fraud offence?  
A. The court proceedings are based on the same offence  
B. The parties to the proceedings are different  
C. The civil and criminal prosecution can be tried parallel  
D. The civil and criminal prosecution cannot be tried based on the same offence (1 mark)
3. Which one of the following statements is **ACCURATE** in regard to circumstantial and exhibit evidence in corruption case?  
A. Bank statements can be exhibits  
B. Bank statements can be real evidence  
C. Bank statements can be documentary evidence  
D. Bank statements can be circumstantial evidence (1 mark)
4. Which one of the following statements is **NOT** accurate in regard to evidence of fraudulent payments to a contractor?  
A. The invoices are exhibits to prove fraudulent payments  
B. The invoices are also real evidence to prove fraudulent payment  
C. The invoices are exculpatory evidence to prove fraudulent payments  
D. The invoices are documentary evidence to prove fraudulent payment (1 mark)
5. Which one of the following statements is **ACCURATE** in regard to the procedural law that sets rules and procedures of collecting evidence, presentation and admissibility of evidence in Kenya jurisdiction?  
A. Evidence Act is both substantive and procedural  
B. Evidence Act does not govern all legal proceedings  
C. Evidence Act governs the admissibility of evidence in all legal proceedings  
D. Evidence Act is both procedural and administrative (1 mark)
6. Which one of the following statements is **NOT** accurate in regard to civil trial and cross-examination in Kenya jurisdiction?  
A. Civil trials feature cross examination  
B. The parties to the cross examination are the plaintiff and defendant  
C. Civil trials do not feature cross-examination  
D. Civil trials cross examination is governed by the evidence Act (1 mark)

7. Which one of the following statements is **ACCURATE** in regard to the parties to a fraud civil litigation during examination in chief?
- A. The defendant and the plaintiff
  - B. The defendant and prosecution
  - C. The defence counsel and prosecution
  - D. The expert witness and prosecution (1 mark)
8. Which one of the following types of evidence is unreliable and **NOT** admissible in court of law in adversarial jurisdictions?
- A. Character testimony
  - B. Eye witness testimony
  - C. Expert witness testimony
  - D. Exhibits (1 mark)
9. Which one of the following is **NOT** an examination conducted during trial in civil fraud suit in Kenya jurisdiction?
- A. Cross-examination
  - B. Re-examination
  - C. Oral/written testimony
  - D. Examination-in chief (1 mark)
10. Which one of the following statements is **MOST** accurate in regard to burden of proof in fraud and corruption criminal proceedings in Kenya jurisdiction?
- A. In Kenya jurisdictions who alleges does not have burden of proof
  - B. In Kenya jurisdictions parties to the criminal proceedings have strict burden of proof
  - C. In Kenya jurisdictions who alleges has the burden of proof
  - D. In Kenya jurisdictions the accused person has the burden of proof (1 mark)
11. Which one of the following statements is **ACCURATE** in regard to criminal defendants in Kenya Jurisdiction?
- A. Criminal defendants have a right to remain silent
  - B. Civil defendants do not have a right to remain silent
  - C. Criminal defendants are expected to testify if so, directed by the court
  - D. Criminal defendants have a right to be presumed innocent during trial (1 mark)
12. Which one of the following statements is **NOT** accurate in regard to civil appeal in the Kenya jurisdiction?
- A. The appellate court can determine issues of law but not factual determination
  - B. The plaintiff in a civil trial can also appeal against the judgement
  - C. The appellate court cannot refer the case back to the bench
  - D. The appellate court can refer the case back to the high court (1 mark)
13. Which one of the following statements is **NOT** accurate in regard to the rules of evidence in Kenya and most adversarial jurisdictions?
- A. Relevance of evidence is a must for admissibility of evidence
  - B. All relevant evidence is admissible in court proceedings
  - C. Not all relevant evidence is admissible
  - D. Relevance is the main rule of admissibility of evidence (1 mark)
14. Which one of the following statements is **ACCURATE** in regard to direct testimony in Kenya courts?
- A. Oral testimony must be direct
  - B. Oral testimony must be real
  - C. Oral testimony must be demonstrative
  - D. Oral testimony must be based on expertise (1 mark)
15. Which one of the following statements is **ACCURATE** in regard to cross examination in criminal proceedings in Kenya Jurisdictions?
- A. Criminal defendant supports their side of the case by diminishing the importance of the evidence presented by the prosecution
  - B. Criminal defendant supports their side of the case by proving that the defendant did not commit the offence
  - C. Criminal defendant supports their side of the case through direct examination of the prosecution witness
  - D. Defence extensively use open and narrative questions in cross-examination to support their side of the case (1 mark)

16. Which one of the following statements is **NOT** accurate in regard to documents and evidence in adversarial jurisdiction?
- A. All documents related to the facts in issue are exhibits
  - B. All documents must be direct evidence
  - C. All documents must be real evidence
  - D. All documents must have been in existence before litigation was anticipated (1 mark)
17. Which one of the following statements is **ACCURATE** in regard to the rule of reliability of evidence?
- A. Digital evidence does not require authentication because it is not physical
  - B. Not all tangible evidence requires authentication
  - C. Testimonial evidence must be properly authenticated
  - D. Digital and physical evidence must be properly authenticated to be admissible (1 mark)
18. Which one of the following statements is **NOT** accurate in regard to the primary witnesses in inquisitorial jurisdictions?
- A. Inquisitorial jurisdictions do not feature cross examination of the court appointed expert witness
  - B. In most inquisitorial jurisdictions the defense witness can question a court appointed expert
  - C. In inquisitorial jurisdictions the defense witness can cross examine a court appointed expert
  - D. In inquisitorial jurisdictions the judge does not cross examine a court appointed witness (1 mark)
19. Which one of the following jurisdictions do parties to a court proceeding have access to the evidentiary record before trial?
- A. Inquisitorial system
  - B. Common law legal system
  - C. Criminal justice system
  - D. Civil justice system (1 mark)
20. Which one of the following statements is **ACCURATE** in regard to a character evidence in criminal trials in Kenya jurisdictions?
- A. Character witness evidence is admissible if there is no conflict of interest
  - B. Character witness evidence can testify to the general good character of the accused person
  - C. Character witness cannot testify to the good character of the accused person
  - D. Character evidence cannot be used under any circumstances in a court of law (1 mark)
21. Which one of the following documents is an example of a real evidence in an alleged fraudulent payment?
- A. Bank transfer document
  - B. Financial statements
  - C. Payment vouchers
  - D. Bank statements (1 mark)
22. Which one of the following statements **BEST** describes an expert witness testimony in court of law?
- A. Oral direct expert testimony
  - B. Expert opinion
  - C. Oral circumstantial testimony
  - D. Real testimony (1 mark)
23. Which one of the following techniques **CANNOT** be used by a defence counsel to disqualify a witness from testifying in court?
- A. The defence counsel can impeach an expert witness, by showing that the witness does not have professional training in the facts in issue
  - B. The defence counsel can impeach an expert witness by showing that witness does not have firsthand information of the facts in issue
  - C. The defence counsel can impeach a witness by showing that the witness does not have technical skill of the facts in issue
  - D. The defence counsel can impeach an expert witness by showing that witness does not have advanced training in the facts in issue (1 mark)

24. Which one of the following **BEST** describes the Kenya laws that sets the rules of reliability of evidence in criminal proceedings in a court of law?  
A. Criminal procedure Code  
B. Bribery Act  
C. Anti-Corruption and Economic Crimes Act  
D. Evidence Act (1 mark)
25. Which one of the following statements is **NOT** accurate in regard to pre-trial proceedings?  
A. Defence and prosecution may request for all information to prepare for defence  
B. The defence and prosecution counsel's work product are privileged  
C. Both the prosecution and defence may request for all exhibits  
D. Disclosure of evidence is limited in criminal proceedings (1 mark)
26. Which one of the following statements is **NOT** accurate in regard to producing in court in common law jurisdictions?  
A. A witness is called to produce a document cannot present evidence of the facts in issue  
B. A witness called to produce a document is not a court witness  
C. A person called to produce a document cannot be cross examined  
D. A witness is called to produce a document cannot be re-examined (1 mark)
27. Which one of the following statements is **ACCURATE** in regard to evidence that tends to explain guilt away?  
A. The evidence is exculpatory  
B. The evidence is less probable than not  
C. The evidence is indirect  
D. The evidence is not beyond reasonable doubt (1 mark)
28. Which one of the following statements is **NOT** accurate in regard to impeachment of an eye witnesses in common law jurisdictions?  
A. An eye witnesses in common jurisdictions can be impeached on basis of previous criminal records  
B. An eye witnesses in common jurisdictions can be impeached on basis of conflict of interest  
C. An eye witnesses in common jurisdictions can be impeached on claims of lack technical skills in the matter being litigated  
D. An eye witnesses in common jurisdictions can be impeached on claims of lack of trustworthiness (1 mark)
29. Which one of the following statements is **MOST** accurate in regard to counsel's questions in cross examination?  
A. A witness should not respond to leading question  
B. The witnesses should not respond to the leading questions intended  
C. The witness should evade responding to leading questions  
D. The witness should avoid answering leading questions (1 mark)
30. Which one of the following elements **BEST** describes a tangible item that can be presented as direct evidence?  
A. Fraudulent invoice  
B. Accounting summaries  
C. Bank statements  
D. Analytical summaries (1 mark)
31. Which one of the following statements **BEST** describes the counsel's objective by pretending they are seeking an answer from the expert witness?  
A. It is to make the witness feel recognised for their expertise  
B. It is to make the witness provide the wrong answer  
C. It is to impeach the witness  
D. It is to make them uneasy (1 mark)
32. Which one of the following statements **BEST** describes direct witness testimony?  
A. Expert testimony is a type of direct evidence  
B. Expert testimony is a type of oral direct evidence  
C. Eye witness testimony is not direct  
D. Eye witness testimony is direct (1 mark)

33. Which one of the following questions is **NOT** allowed during examination in chief and re-examination but can be asked during cross examination?
- A. Open ended questions
  - B. Narrative questions
  - C. Leading questions
  - D. Closed questions
- (1 mark)
34. Which one of the following **BEST** describes the jurisdictions where the court discover evidence before trial?
- A. Civil law jurisdiction
  - B. Inquisitorial jurisdiction
  - C. Adversarial jurisdiction
  - D. Family jurisdiction
- (1 mark)
35. Which one of the following statements **BEST** describes burden of proof for both parties to a court criminal proceeding?
- A. Inner conviction of the judge
  - B. Beyond reasonable doubts
  - C. More probable than not
  - D. Strict liability
- (1 mark)
36. Which one of the following statements is **NOT** accurate in regard to relevant evidence?
- A. Evidence must be inculpatory to be relevant
  - B. Inculpatory evidence must be relevant to the facts in issue
  - C. Exculpatory evidence is not relevant to the facts in issue
  - D. Exculpatory evidence must be relevant to the facts in issue
- (1 mark)
37. Which one of the following elements **BEST** describes an appeal against summary judgement in adversarial jurisdictions?
- A. Declaratory judgment
  - B. Injunctions
  - C. Equitable judgement
  - D. Appeal against liability
- (1 mark)
38. Which one of the following statements is **NOT** accurate in regard to the two main judicial justice systems in adversarial law jurisdictions?
- A. Criminal justice system features a guilty plea agreement
  - B. A guilty plea is a written confession of guilt
  - C. Criminal justice system does not feature written confession bargaining agreement
  - D. A written confession is not a guilty plea
- (1 mark)
39. Which one of the following phases is second in a criminal proceeding in civil jurisdictions?
- A. The investigative phase
  - B. The trial phase
  - C. The examination phase
  - D. Sentencing phase
- (1 mark)
40. Which one of the following statements is **ACCURATE** in regard to a court appointed expert witness in adversarial jurisdictions?
- A. A court may appoint an expert to express an expert opinion on the prosecution witness opinion
  - B. A court cannot appoint an expert witness because witnesses are appointed by the parties to the litigation
  - C. A court appointed expert provide circumstantial evidence in court
  - D. A court appointed expert provides direct testimonial evidence in court
- (1 mark)
41. Which one of the following statements **BEST** describes the standard of proof in fraud civil litigation in inquisitorial jurisdiction?
- A. The evidence must pass the test of reasonable doubts
  - B. Evidence must be higher than balance of probability
  - C. Evidence is based on the inner conviction of the judge
  - D. Evidence must have higher degree of probability than balance of probability
- (1 mark)

42. Which one of the following statements is **ACCURATE** in regard to evidence in adversarial jurisdiction like Kenya?
- A. Confession by an accused person is direct evidence if it meets certain legal requirements
  - B. Confession by an accused person is automatically admitted as direct evidence
  - C. Confession by an accused person is not direct evidence
  - D. Confession by an accused person is the same as a guilty plea (1 mark)
43. Which one of the following statements is **NOT** accurate in regard to waiver of legal professional privileges?
- A. The privilege will be waived if the client's counsel shares privileged communications with a consulting expert
  - B. The privilege will be waived if the client intentionally shares privileged communications with a third party who has no legitimate interest in the matter
  - C. The privilege will be waived if the client accidentally forwards an email with privileged information to third parties who have no need to know the information
  - D. The privilege will be waived if the client forwards an email with public information to third parties (1 mark)
44. Which one of the following statements is **NOT** accurate in regard to the rights of criminal defendants?
- A. A person accused of a crime has no right to question their own witness
  - B. A person accused of a crime has right to cross examine the prosecution witness
  - C. A person accused of a crime has right to question their own witness
  - D. A person accused of a crime can cross examine the prosecution witness after re-examination of the witness (1 mark)
45. Which one of the following statements is **ACCURATE** in regard to judicial adversarial process?
- A. The discovery of the opposing side's evidence before it is presented in court
  - B. The cross examination of the witnesses during trial
  - C. The burden of proof is with only one party to the court proceedings
  - D. The standard of proof is beyond reasonable doubt (1 mark)
46. Which one of the following statements is **ACCURATE** in regard to fraud and the justice processes?
- A. Fraud cases can only be resolved through legal judicial processes
  - B. Fraud cases cannot be resolved through quasi-judicial courts
  - C. Fraud cases are best resolved through parallel proceedings
  - D. Fraud case can be resolved through arbitration but not mediation (1 mark)
47. Which one of the following statements is **ACCURATE** in regard to criminal and civil justice systems in common jurisdiction?
- A. The burden of proof is with both parties to the litigation
  - B. The standard of proof is the same in both systems
  - C. The criminal and civil justice system have three phases and two phases trial phases respectively
  - D. Both justice systems have three phases of the trial process (1 mark)
48. Which one of the following statements **BEST** describes the role of the prosecution and criminal defendant in a trial process in common law jurisdiction?
- A. Advisory role in guiding the presiding judge
  - B. Questioning each other during the trial process
  - C. To conduct oral examination during the investigation phase
  - D. To prepare the documentary record (1 mark)
49. Which one of the following statements **BEST** describes what the Civil Procedure Act provides for Kenya jurisdiction?
- A. Rules and procedures in civil justice system in Kenya jurisdiction
  - B. Rules and procedures in the Kenya legal system
  - C. Rules and procedures to apply in a civil suit
  - D. Defining civil offences and punishment for civil wrongs (1 mark)
50. Which one of the following Kenya laws sets the rules and procedures for determining fraud civil cases in Kenya?
- A. Criminal Procedure Code
  - B. Civil Procedure Act
  - C. Anti-corruption and Economic Crimes Act
  - D. Penal Code (1 mark)

**SECTION II (50 MARKS)**

51. (a) Explain **THREE** types of relevant evidence that are not admissible in court of law in adversarial jurisdictions like Kenya. (6 marks)
- (b) Explain **TWO** types of direct evidence that can prove an allegation of fraudulent payments for goods not supplied. (4 marks)
- (c) Explain **FIVE** rules related to reliability of evidence that would make evidence inadmissible in court of law in adversarial jurisdictions. (10 marks)

**(Total: 20 marks)**

52. Using suitable examples, explain the following types of evidence in an allegation of procurement fraud that involve buying and paying for expired goods by a government entity:

- (a) Oral direct evidence. (5 marks)
- (b) Circumstantial evidence. (5 marks)
- (c) Exhibit. (5 marks)

**(Total: 15 marks)**

53. Write a brief sample of an expert witness report/statement that can be used in a court of law, on allegations of fraudulent payments for goods not supplied. Include **FIVE** key points of an expert witness report.

**(Total: 10 marks)**

54. (a) Identify **THREE** types of witnesses who testify in court but are not court witnesses. (3 marks)
- (b) Identify **TWO** types of witness testimony that are not oral direct. (2 marks)

**(Total: 5 marks)**

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**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 20 August 2025. Afternoon Paper.**

**Time Allowed: 3 hours.**

**Answer ALL questions. This paper has two sections. SECTION I consists of fifty (50) Multiple Choice Questions carrying fifty (50) marks. SECTION II has four (4) structured questions carrying fifty (50) marks. Marks allocated to each question are indicated at the end of the question.**

**SECTION I (50 MARKS)**

1. Which one of the following statements is **NOT** accurate in regard to an expert opinion in fraudulent financial report facts in issue in Kenya jurisdiction? The expert witness must \_\_\_\_\_.
  - A. be a qualified accountant
  - B. have experience in accounting
  - C. be able to help the court to interpret the technical facts of the case
  - D. have advanced training in accounting and financial reporting(1 mark)
  
2. Which one of the following statements is **NOT** accurate in regard to civil and criminal trials in a fraud or corruption offences?
  - A. The parallel proceedings will be based on the same facts in issue
  - B. The parties to the parallel proceedings are the same
  - C. The civil and criminal trials can be tried parallel
  - D. The parallel proceedings are not based on the same facts in issue(1 mark)
  
3. Which one of the following statements is **ACCURATE** in regard to bank statements of a corruption suspect? Bank statements can be \_\_\_\_\_.
  - A. exhibits
  - B. real evidence
  - C. documentary evidence
  - D. circumstantial evidence(1 mark)
  
4. Which one of the following statements is **NOT ACCURATE** in regard to fraudulent invoices submitted by a vendor? Fraudulent invoices can be \_\_\_\_\_.
  - A. exhibits
  - B. real evidence
  - C. circumstantial evidence
  - D. documentary evidence(1 mark)
  
5. Which one of the following statements is **ACCURATE** in regard to the law of evidence in Kenya jurisdictions?
  - A. Kenya evidence law is both substantive and procedural
  - B. Kenya evidence law is both procedural and administrative
  - C. Kenya evidence law governs the admissibility of evidence in all legal proceedings
  - D. Kenya evidence law does not govern all legal proceedings(1 mark)

6. Which one of the following statements is **ACCURATE** in regard to the parties to a civil litigation in re-examination?
- A. The defendant and the plaintiff
  - B. The prosecution and the criminal defendant
  - C. The defence counsel and prosecution
  - D. The expert witness and prosecution
- (1 mark)
7. Which one of the following statements is **ACCURATE** in regard to the parties to a civil fraud trial in direct examination?
- A. The defendant and the plaintiff
  - B. The defendant and the prosecution
  - C. The defence counsel and the prosecution
  - D. The expert witness and the prosecution
- (1 mark)
8. Which one of the following types of evidence is a hearsay evidence?
- A. Character evidence
  - B. Eye witness evidence
  - C. Documents
  - D. Exhibits
- (1 mark)
9. The type of examination conducted during pre-trial in a fraud case is \_\_\_\_\_.
- A. cross-examination
  - B. re-examination
  - C. oral/written testimony
  - D. none of the above
- (1 mark)
10. Which one of the following statements is **MOST ACCURATE** in regard to who alleges a criminal offence?
- A. In adversarial jurisdictions who alleges does not have burden of proof
  - B. In inquisitorial jurisdictions who alleges has strict burden of proof
  - C. In both adversarial and inquisitorial jurisdictions who alleges has the burden of proof
  - D. In inquisitorial jurisdictions who alleges has burden of proof
- (1 mark)
11. Which one of the following statements is **ACCURATE** in regard to civil defendant's rights in civil litigation?
- A. In adversarial judicial processes civil defendants have a right to remain silent
  - B. In inquisitorial law jurisdictions civil defendants do not have a right to remain silent
  - C. In adversarial judicial processes criminal defendants are expected to testify if so directed by the court
  - D. None of the above
- (1 mark)
12. Which one of the following statements is **NOT** accurate in regard to civil of appeal in the adversarial jurisdiction?
- A. The appellate court can determine issues of law but not factual determination
  - B. The plaintiff in a civil trial can also appeal against the judgement
  - C. The appellate court cannot refer the case back to the high court
  - D. The appellate court can refer the case back to the high court
- (1 mark)

13. Which one of the following statements is **NOT** accurate in regard to the basic principles of evidence?
- A. Relevance of evidence is a must for evidence to be admitted
  - B. Relevance of evidence is a must only in criminal offences
  - C. Relevance of evidence is not a must in civil law jurisdictions
  - D. Not all relevant evidence to prove facts in issue is admissible
- (1 mark)
14. Which one of the following statements is **ACCURATE** in regard to oral testimony in Kenya? Oral testimony must be \_\_\_\_\_.
- A. direct
  - B. real
  - C. demonstrative
  - D. based on expertise on the facts in issue
- (1 mark)
15. Which one of the following statements is **ACCURATE** in regard to cross examination and the defence?
- A. Defence support their side of the case by diminishing the importance of the evidence presented by the prosecution or plaintiff
  - B. Defence support their side of the case by presenting evidence to prove that the defendant did not commit the offence
  - C. Defence support their side of the case through direct examination of their witness
  - D. Defence extensively use open and narrative questions in cross- examination to support their side of the case
- (1 mark)
16. Which one of the following statements is **NOT** accurate in regard to admissibility of documentary evidence? Document evidence \_\_\_\_\_.
- A. can also prove facts in issue circumstantially
  - B. must be direct evidence
  - C. must be an exhibit
  - D. must have been in existence before litigation was anticipated
- (1 mark)
17. Which one of the following statements is **ACCURATE** in regard to the rule of authentication?
- A. Digital evidence does not require authentication because they are self-authenticating
  - B. Not all tangible evidence requires authentication
  - C. All testimonial evidence must be properly authenticated
  - D. Only tangible evidence require authentication
- (1 mark)
18. Which one of the following statements is **NOT** accurate in regard to expert witnesses in civil jurisdictions?
- A. Inquisitorial jurisdictions do not feature cross examination of the court appointed expert witness
  - B. In most inquisitorial jurisdictions, the defense witness can question a court appointed expert
  - C. In inquisitorial jurisdictions, the defense witness can cross examine a court appointed expert
  - D. In inquisitorial jurisdictions, the judge does not cross examine a court appointed witness
- (1 mark)
19. Which one of the following legal systems can the parties to a court proceedings access full evidentiary record at the outset of a trial?
- A. Civil legal system
  - B. Common law legal system
  - C. Federal legal system
  - D. Unitary legal system
- (1 mark)

20. Which one of the following statements is **ACCURATE** in regard to a witness's evidence in common law jurisdictions?
- A. Character witness evidence is admissible if it is beyond reasonable doubt
  - B. Character witness evidence cannot be admitted for conviction purposes
  - C. Character witness cannot testify to the good character of the accused person
  - D. Character evidence cannot be used under any circumstances (1 mark)
21. Which one of the following is an example of an exhibit in a fraudulent payments fact in issue is \_\_\_\_\_.
- A. a fraudulent invoice
  - B. fraudulent financial statements
  - C. payment vouchers
  - D. bank statements (1 mark)
22. Which one of the following statements **BEST** describes an expert testimonial evidence?
- A. Oral/written witness statement
  - B. Expert opinion
  - C. Oral direct evidence
  - D. Real testimonial evidence (1 mark)
23. Which one of the following techniques **CANNOT** be used by defence counsel to remove evidence?
- A. The defence counsel can impeach an expert witness by claiming that he/she does not have formal education on matters being tried
  - B. The defence counsel can impeach an expert witness by claiming that he/she does not have firsthand knowledge on matters being tried
  - C. The defence counsel can impeach a witness by claiming that he/she has conflict of interest
  - D. The defence counsel can impeach an expert witness by claiming that he/she does not have the necessary experience on matters being tried (1 mark)
24. Which one of the following Acts **BEST** describes the law in Kenya that sets the rules and procedures of collecting and presenting evidence of a fraud offence during trial?
- A. Criminal Procedure Act
  - B. Civil Procedure Act
  - C. Anti- Corruption and Economic Crimes Act
  - D. None of the above (1 mark)
25. Which one of the following statements is **NOT ACCURATE** in regard to disclosure of evidence in common law jurisdictions like Kenya?
- A. Defense and prosecution may request for all information prepared by the prosecution
  - B. The defence and prosecution counsel's work product are protected
  - C. Both the prosecution and defence may request for all tangible evidence that will be produced in court
  - D. Disclosure of evidence is limited in criminal proceedings (1 mark)
26. Which one of the following statements is **NOT ACCURATE** in regard to authentication of exhibits in adversarial jurisdictions?
- A. A witness is called to produce a document and presents evidence of the facts in issue
  - B. A witness called to produce a document is not a court witness
  - C. A person called to produce a document cannot be cross examined by the defence counsel
  - D. A witness is called to produce a document cannot present evidence of the facts in issue (1 mark)

27. Which one of the following statements is **NOT** accurate in regard to exculpatory evidence?
- A. Exculpatory evidence cannot be relevant to the facts in issue
  - B. Exculpatory evidence can be relevant to the facts in issue
  - C. Prosecution should include exculpatory evidence
  - D. Exculpatory evidence explains guilt away
- (1 mark)
28. Which one of the following statements is **MOST** accurate in regard to impeachment of expert witnesses in civil and common law jurisdictions?
- A. Witnesses in both common law and civil law jurisdictions can be impeached on claims of lack of credibility
  - B. Witnesses in both common law and civil law jurisdictions cannot be impeached on claims of credibility
  - C. Witnesses in both common law and civil law jurisdictions can be impeached on claims of lack of expertise
  - D. Witnesses in common law jurisdictions can be impeached on claims of lack of personal knowledge
- (1 mark)
29. Which one of the following statements is **NOT** accurate in regard to responding to counsel's leading questions?
- A. A witness should not respond to leading question
  - B. A witness should not respond to the leading questions accordingly
  - C. A witness should evade responding to leading questions
  - D. A witness should avoid answering leading questions
- (1 mark)
30. Which one of the following documents **BEST** describes the physical document that can be presented as real evidence?
- A. Forged check
  - B. Accounting summaries
  - C. Bank statements
  - D. Expert opinion
- (1 mark)
31. Which one of the following statements **BEST** describes the counsel's objective of providing a false sense of security?
- A. To make the witness angry
  - B. To discredit the witness
  - C. To impeach the witness
  - D. To make them comfortable
- (1 mark)
32. Which one of the following statements **BEST** describes the expert testimony in adversarial jurisdictions? Expert testimony is a type of \_\_\_\_\_.
- A. direct evidence
  - B. oral direct evidence
  - C. circumstantial evidence
  - D. expert opinion evidence
- (1 mark)
33. Which one of the following questions is **NOT** allowed during examination in chief?
- A. Open ended questions
  - B. Narrative questions
  - C. Leading questions
  - D. Closed questions
- (1 mark)

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34. Which one of the following jurisdictions **BEST** describes where the court discovers evidence before trial?
- A. Civil law jurisdiction
  - B. Inquisitorial jurisdiction
  - C. Adversarial jurisdiction
  - D. None of the above
- (1 mark)
35. Which one of the following statements **BEST** describes strict liability in criminal proceedings?
- A. The prosecution does not need to prove intent
  - B. The prosecution must prove intent because it is an essential element of prove in criminal proceedings
  - C. Strict liability requires evidence that is beyond reasonable doubts
  - D. None of the above
- (1 mark)
36. Which one of the following statements is **NOT ACCURATE** in regard to inculpatory evidence?
- A. Inculpatory evidence tends to incriminate the accused person
  - B. Inculpatory evidence must be relevant to the facts in issue
  - C. If evidence is not inculpatory, it is not relevant to the facts in issue
  - D. None of the above
- (1 mark)
37. Which one of the following statements **BEST** describes the civil litigation process in a civil law jurisdiction?
- A. It is divided into the pretrial stage and the trial stage
  - B. The presiding judge creates a word for word trial record of the proceeding
  - C. The trial judge generally rules on the admissibility of the evidence at the beginning of the trial
  - D. It involves continuous meetings and written correspondences
- (1 mark)
38. Which one of the following statements **BEST** describes pretrial civil discovery in most adversarial jurisdictions?
- A. Pretrial written examinations
  - A. Injunctions
  - B. Requests for agreement
  - C. Indictments
- (1 mark)
39. Which one of the following statements is **ACCURATE** in regard to duty to preserve relevant evidence in civil trial in adversarial jurisdictions? The duty starts when \_\_\_\_\_.
- A. litigation is reasonably anticipated
  - A. it is obvious litigation will take place
  - B. the defendant files a response
  - C. the plaintiff files pleadings
- (1 mark)
40. Which one of the following statements is **ACCURATE** in regard to request of information in civil fraud trials in common law jurisdiction?
- A. A defendant may not request any information from the other party in pretrial civil litigation
  - A. A defendant will have to wait until trial commences to request for information
  - B. A defendant may request the information from the party through a written examination during pre-trial
  - C. A defendant may request for very limited information
- (1 mark)

41. Which one of the following concepts **BEST** describes the remedy before judgement in a civil litigation in common law jurisdictions?
- A. Declaratory judgment
  - A. Injunctions
  - B. Equitable judgement
  - C. None of the above
- (1 mark)
42. Which one of the following statements is **NOT** accurate in regard to criminal justice system in common law and civil law jurisdictions?
- A. Criminal justice system features a guilty plea agreement
  - B. A guilty plea is an oral direct testimonial evidence in criminal justice
  - C. Criminal justice system features written confession in civil law jurisdictions
  - D. A written confession is a direct testimonial evidence in civil law jurisdictions
- (1 mark)
43. Which one of the following statements is **ACCURATE** in regard to expert opinion in corruption civil suits?
- A. An expert opinion must be in form of real evidence
  - B. An expert opinion is required in civil corruption suits
  - C. The expert witness must have direct personal knowledge of the facts in issue
  - D. Expert opinion is not required in any civil litigation
- (1 mark)
44. Which one of the following statements is **ACCURATE** in regard to evidence in civil trials in inquisitorial and adversarial jurisdictions? Written confession \_\_\_\_\_.
- A. can be presented as direct evidence in inquisitorial civil court proceeding
  - B. cannot be presented as evidence in inquisitorial civil court proceeding
  - C. can be presented as evidence in adversarial civil court proceeding
  - D. cannot be presented as direct evidence in inquisitorial civil court proceeding
- (1 mark)
45. Which one of the following stages is the third phase of a criminal proceeding in Kenya jurisdictions?
- A. The investigative phase
  - B. The trial phase
  - C. The examination phase
  - D. Sentencing phase
- (1 mark)
46. Which one of the following statements is **ACCURATE** in regard to prove of gross negligence in adversarial jurisdictions?
- A. A court may appoint an expert to express an expert opinion on the expert opinion of the parties to the litigation expert testimony
  - B. A court cannot appoint an expert witness because witnesses are appointed by the parties to the litigation
  - C. A court appointed expert provides circumstantial evidence in court
  - D. A court appointed expert provides direct testimonial evidence in court
- (1 mark)
47. Which one of the following statements **BEST** describes the standard of proof civil action in civil law jurisdiction?
- A. The evidence must pass the test of reasonable doubts that might be presented by the defenses
  - B. Evidence presented must be on balance of probability
  - C. Evidence is based on the inner conviction of the judge
  - D. Evidence presented must be less likely than not
- (1 mark)

48. Which one of the following statements is **NOT** accurate in regard to admission of evidence in adversarial jurisdictions like Kenya?
- A. Direct evidence that are relevant to prove other facts related to the facts in issue cannot be admitted as exhibits
  - B. Exhibits that are relevant to the facts in issue can be admitted as direct evidence
  - C. Direct oral evidence by a witness can be admitted as direct evidence
  - D. All types of direct evidence are exhibits
- (1 mark)
49. Which one of the following statements is **NOT** accurate in regard to waiver of legal litigation privileges?
- A. The privilege will be waived if the client's counsel shares privileged communications with a consulting expert
  - B. The privilege will be waived if the client intentionally shares privileged communications with a third party who has no legitimate interest in the matter
  - C. The privilege will be waived if the client accidentally forwards an email with privileged information to third parties who have no need to know the information.
  - D. None of the above
- (1 mark)
50. Which one of the following statements is **NOT** accurate in regard to the rights of those accused of crime in regards to presenting their defence? A person accused of a crime \_\_\_\_\_.
- A. has no right to question their own witness
  - B. has a right to cross examine the prosecution witness
  - C. has a right to question their own witness
  - D. can cross examine the prosecution witness after re-examination of the witness
- (1 mark)

**SECTION II (50 MARKS)**

51. (a) Explain **THREE** types of witnesses and their role in a fraud case being heard in a Kenyan court. (6 marks)
- (b) Explain **TWO** types of direct evidence in a fraud case. (4 marks)
- (c) Explain **THREE** reasons why evidence may not be admissible in adversarial jurisdictions like Kenya. (6 marks)
- (d) Identify **THREE** types of evidence that are unreliable and therefore not admissible in adversarial jurisdictions. (3 marks)
- (e) Identify **ONE** type of an exhibit in a fraudulent disbursements case. (1 mark)
- (Total: 20 marks)**
52. Explain the following trial processes in adversarial jurisdictions:
- (a) Direct examination/examination in chief. (5 marks)
  - (b) Cross examination. (5 marks)
  - (c) Re-examination. (5 marks)
- (Total: 15 marks)**
53. Explain **FIVE** sections of an expert witness statement. (10 marks)
54. (a) Identify **THREE** types of witnesses who testify in court but cannot provide evidence in a court in Kenya. (3 marks)
- (b) Identify **TWO** types of court witnesses who cannot present oral direct evidence in a court of law in Kenya. (2 marks)
- (Total: 5 marks)**

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**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**THURSDAY: 24 April 2025. Afternoon Paper.**

**Time Allowed: 3 hours.**

**Answer ALL questions. This paper has two Sections. SECTION I consists of fifty (50) Multiple Choice Questions carrying fifty (50) marks. SECTION II has four (4) structured questions carrying fifty (50) marks. Marks allocated to each question are indicated at the end of the question.**

**SECTION I (50 MARKS)**

1. Which one of the following statements is **NOT** accurate in regard to an expert testimony in a criminal construction fraud trial in Kenya's jurisdiction?
  - A. The expert witness must have expertise in construction
  - B. The expert witnesses must have formal qualifications in the field of construction
  - C. The expert must have personal knowledge of the facts in issue
  - D. The expert witness must be able to help the court to interpret the technical facts of the case (1 mark)
  
2. Which one of the following statements is **NOT** accurate in regard to parallel proceedings in a fraud or corruption case?
  - A. The parallel proceedings are based on the same facts in issue
  - B. The parties to the litigation and criminal proceedings are the same in parallel proceedings
  - C. Parallel proceedings can involve civil, criminal and administrative trials
  - D. The parties to the litigation and criminal proceedings are not the same in parallel proceedings (1 mark)
  
3. Which one of the following statements is **NOT** accurate in regard to documentary evidence?
  - A. Only documents that directly take part in commission of the offence can be introduced as exhibits
  - B. Documents are generally hearsay evidence
  - C. An affidavit is a hearsay evidence
  - D. Bank statement of a suspect is hearsay evidence (1 mark)
  
4. Which one of the following statements is **ACCURATE** in regard to bank statements of a bribery suspect?
  - A. The bank statements can directly prove bribery
  - B. The bank statements are hearsay evidence
  - C. The bank statements can be used as exhibits to prove bribery
  - D. The bank statements are circumstantial evidence (1 mark)

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5. Which one of the following statements is **NOT** accurate in regard to the law of evidence in both common and civil law legal systems?
- A. Most adversarial jurisdictions like Kenya have a separate law of evidence
  - B. Civil law legal systems do not have separate law of evidence
  - C. The law of evidence governs the admissibility of evidence in all legal proceedings
  - D. Civil law courts can admit all evidence
- (1 mark)
6. Which one of the following statements is **ACCURATE** in regard to guilty plea and admission?
- A. A guilty plea is the same as an admission
  - B. A guilty plea is not the same as admission
  - C. A guilty plea is oral direct testimonial evidence
  - D. A guilty plea is confession evidence
- (1 mark)
7. Which one of the following statements is **ACCURATE** in regard to direct testimonial evidence in Kenya?
- A. There can be several witnesses to give oral direct evidence
  - B. The evidence is presented in form of a written statement
  - C. There are several types of oral direct evidence
  - D. None of the above
- (1 mark)
8. Which one of the following statements is **ACCURATE** in regard to expert opinion in fraud civil litigation?
- A. An expert opinion must be in form of real evidence
  - B. An expert opinion is required in civil fraud cases
  - C. The expert witness must have direct personal knowledge of the facts in issue
  - D. Expert opinion is not required in civil fraud litigation
- (1 mark)
9. Which one of the following statements is **ACCURATE** in regard to confessions in civil law jurisdictions?
- A. Confession is real evidence
  - B. Confession is direct evidence
  - C. Confession is a direct testimonial evidence
  - D. Confession evidence is an exhibit
- (1 mark)
10. Which one of the following statements is **ACCURATE** in regard to cross examination of expert witnesses in Kenya during a fraud criminal proceeding?
- A. The questioning of the expert witness is conducted by the judge
  - B. The questioning of the expert witness is conducted by the defence counsel only
  - C. The questioning of the expert witnesses is conducted by the parties to the criminal proceedings
  - D. The questioning of the expert witness is conducted by the prosecution counsel only
- (1 mark)
11. Which one of the following statements **BEST** describes oral direct evidence?
- A. Oral direct evidence is presented by an eye witness
  - B. Oral direct evidence is presented by an expert witness
  - C. Oral direct evidence requires expertise on the facts in issue
  - D. Oral direct evidence is presented in form of a written statement
- (1 mark)

12. Which one of the following statements is **ACCURATE** in regard to criminal bargaining agreement in criminal justice system?
- A. Bargaining agreement has experienced a lot of opposition in the common law jurisdictions in the recent years
  - B. Bargaining agreement is practiced more in the inquisitorial jurisdictions than in the adversarial jurisdictions
  - C. Bargaining agreement is an efficient method of disposing criminal cases
  - D. None of the above
- (1 mark)
13. Which one of the following statements is **ACCURATE** in regard to professional legal privileges for an expert witness statement?
- A. The expert witness statement is not protected by professional legal privileges
  - B. The expert witness statement is protected by professional legal privileges
  - C. The expert witness statement is a confidential communication with the legal counsel and therefore protected by professional legal privileges
  - D. None of the above
- (1 mark)
14. The second stage of a criminal proceeding in civil law jurisdictions is \_\_\_\_\_.
- A. investigative phase
  - B. trial phase
  - C. examination phase
  - D. none of the above
- (1 mark)
15. Parties to a criminal proceeding in cross examination are \_\_\_\_\_.
- A. the defence counsel and expert witness
  - B. the prosecution and the criminal defendant
  - C. the defence counsel and prosecution
  - D. the expert witness and prosecution
- (1 mark)
16. Which one of the following statements is **ACCURATE** in regard to the parties to a criminal proceeding during direct examination?
- A. The prosecution and expert witness
  - B. The prosecution and the criminal defendant
  - C. The defence counsel and prosecution
  - D. The expert witness and prosecution
- (1 mark)
17. Which one of the following types of evidence may be inadmissible because of lack of reliability?
- A. Character evidence
  - B. Eye witness evidence
  - C. Expert opinion
  - D. None of the above
- (1 mark)
18. The type of examination conducted after cross examination is called \_\_\_\_\_.
- A. cross-examination
  - B. re-examination
  - C. oral- examination
  - D. written testimony
- (1 mark)

19. Which one of the following statements is **ACCURATE** in regard to burden of proof in criminal trials in adversarial and inquisitorial jurisdictions?
- A. In adversarial jurisdictions, the burden of proof is with the defendant
  - B. In the adversarial jurisdictions, the burden of proof is with the prosecution
  - C. In inquisitorial jurisdictions, both parties to criminal proceedings have the burden of proof
  - D. In inquisitorial jurisdictions, the plaintiff has the burden of proof (1 mark)
20. Which one of the following statements is **NOT** accurate in regard to criminal defendant's rights during a criminal trial proceeding?
- A. In adversarial judicial proceedings, criminal defendants have a right to remain silent
  - B. In inquisitorial law jurisdictions, criminal defendants do not have a right to remain silent
  - C. In adversarial judicial processes, criminal defendants are expected to testify if so directed by the court
  - D. None of the above (1 mark)
21. Which one of the following statements is **NOT** accurate in regard to court of appeal in the adversarial jurisdiction?
- A. The appellate court can determine only issues of law
  - B. The winning party in a civil trial can also appeal against the judgement
  - C. The appellate court cannot determine issues of evidence
  - D. A plaintiff awarded damages by the high court cannot file an application with the court of appeal (1 mark)
22. Which one of the following statements is **NOT** accurate in regard to relevant evidence in the adversarial jurisdictions?
- A. Not all relevant evidence is admissible in a court of law
  - B. Relevant evidence may be inadmissible if it is not relevant to the facts in issue
  - C. Relevant evidence may be inadmissible if it is prejudicial
  - D. All relevant evidence is admissible in a court of law (1 mark)
23. Which one of the following statements is **ACCURATE** in regard to the rules of evidence in Kenya?
- A. Oral direct evidence is a form of real evidence provided by a witness with firsthand information of the facts in issue
  - B. Oral direct evidence is a form of direct evidence provided by a witness with firsthand information of the facts in issue
  - C. Oral direct evidence is a form of circumstantial evidence provided by a witness with firsthand information of the facts in issue
  - D. Oral direct evidence is a form of exhibit provided by a witness with firsthand information of the facts in issue (1 mark)
24. Which one of the following statements is **ACCURATE** in regard to opposing counsel's general rule?
- A. It is the general rule for the opposing counsel to elicit as much information as possible from the expert witness
  - B. It is a general rule for opposing counsel to ask leading questions to make the witness a sounding board
  - C. It is a general rule for opposing counsel to seek answers from the expert witness on technical matters
  - D. It is a general rule for opposing counsel to create a force sense of security (1 mark)

25. Which one of the following statements is **NOT** accurate in regard to authentication and admissibility of evidence?
- A. Document evidence that is relevant to the facts in issue must be properly authenticated to be admissible in court
  - B. The objective of authentication is to ensure that a document is not forgery
  - C. The objective of authentication is to ensure that both defendant and prosecution gets fair trial
  - D. A document that is relevant to the facts in issue must be produced in court as a means of authenticating the document (1 mark)
26. Which one of the following statements is **NOT** accurate in regard to the rule of admissibility?
- A. For evidence to be admissible it must be legally obtained
  - B. For tangible evidence to be admissible it must be properly authenticated
  - C. For testimonial evidence to be admissible it must be properly authenticated
  - D. Only tangible evidence require authentication (1 mark)
27. Which one of the following statements **BEST** describes inner conviction of the judge?
- A. The evidence must pass the test of reasonable doubts that might be presented by the defense
  - B. Evidence presented must be on balance of probability
  - C. The judge's determination is based on the weight of the evidence
  - D. None of the above (1 mark)
28. Which one of the following evidence for fraud cases is **NOT** admissible in adversarial jurisdiction like Kenya?
- A. Direct evidence that are relevant to prove other facts related to the facts in issue
  - B. Exhibits that are relevant to the facts in issue
  - C. Direct oral evidence by a witness
  - D. None of the above (1 mark)
29. Which one of the following statements is **NOT** accurate in regard to waiver of legal professional privileges?
- A. The privilege is waived if the client's counsel shares privileged communications with a consulting expert
  - B. The privilege is waived if the client intentionally shares privileged communications with a third party who has no legitimate interest in the matter
  - C. The privilege is waived if the client accidentally forwards an email with privileged information to third parties who have no need to know the information.
  - D. None of the above (1 mark)
30. Which one of the following statements is **NOT** accurate in regard to the rights of those accused of crimes in criminal justice system?
- A. An accused person is presumed liable if the evidence is beyond reasonable doubt
  - B. A person accused of a crime is not liable until proven guilty by a court of law
  - C. A person accused of a crime has right to be tried without undue delay
  - D. A person accused of a crime has right to examine a defence witness (1 mark)
31. Which one of the following statements is **NOT** accurate in regard to cross-examination and questioning in inquisitorial jurisdictions?
- A. Inquisitorial jurisdictions do not feature cross examination of the court expert witness
  - B. In most inquisitorial jurisdictions, the defense witness can question the court appointed expert
  - C. In most inquisitorial jurisdictions, the defense witness can cross examine the court appointed expert
  - D. In most inquisitorial jurisdictions, the judge cannot cross examine the court appointed witness (1 mark)

32. Which one of the following jurisdictions can the parties to the litigation access full evidentiary record at the outset of a criminal proceedings?
- A. Civil law jurisdictions
  - B. Common law jurisdictions
  - C. Federal jurisdictions
  - D. Unitary jurisdiction
- (1 mark)
33. Which one of the following statements is **ACCURATE** in regard to character evidence in adversarial jurisdictions?
- A. Character evidence is direct testimonial evidence
  - B. Character evidence is circumstantial evidence
  - C. Character evidence is admissible in court of law
  - D. Character witness cannot be cross examined
- (1 mark)
34. Which one of the following statements is an example of real evidence in a fraud case?
- A. Fraudulent invoice used to demand payment from an organisation
  - B. Fraudulent financial statements
  - C. An analysis of receipts against bank deposits
  - D. A link net diagram
- (1 mark)
35. Which one of the following situations **BEST** illustrates testimonial evidence in a fraud trial?
- A. A forensic accountant explaining their findings in court
  - B. A signed contract proving a fraudulent transaction
  - C. CCTV footage showing the accused accepting a bribe
  - D. A digital forensic report analysing suspicious transactions
- (1 mark)
36. Which one of the following statements is **NOT** accurate in regard to impeachment of an expert witness on claims of lack of expertise?
- A. The expert witness does not have formal education
  - B. The expert witness does not have the necessary experience
  - C. The expert witness does not have personal knowledge in the matters being litigated
  - D. None of the above
- (1 mark)
37. Which one of the following statements **BEST** describes Kenya Evidence Act type of law?
- A. The evidence Act is a substantive law
  - B. The evidence Act is a procedural law
  - C. The evidence Act is neither a substantive nor procedural law
  - D. None of the above
- (1 mark)
38. Which one of the following statements is **ACCURATE** in regard to discovery of evidence in criminal proceedings in adversarial jurisdictions like Kenya?
- A. Defense may request for all information the prosecution will use in court
  - B. Prosecution may request for all information the defence will use in court
  - C. Both the prosecution and defence may request for all tangible evidence that will be produced in court
  - D. Both the prosecution and defence may request for all documents prepared in anticipation for court proceedings
- (1 mark)

39. Which one of the following statements is **NOT** accurate in regard to witness called to produce a document in court in adversarial jurisdictions?
- A. A witness called to produce a document is not a court witness
  - B. A witness called to produce a document is a court witness
  - C. A person called to produce a document can be questioned by the defense counsel
  - D. A witness called to produce a document can be cross examined
- (1 mark)
40. Which one of the following statements is **NOT** accurate in regard to documentary tangible evidence?
- A. Documents relevant to the facts in issue are tangible evidence
  - B. Real evidence is a type of tangible evidence
  - C. Demonstrative evidence is a tangible evidence, but it is not a documentary evidence
  - D. All documents related to the facts in issue are exhibits
- (1 mark)
41. Which one of the following statements is **NOT** accurate in regard to impeachment of an eye witness?
- A. The eye witness does not have personal knowledge of the facts in issue
  - B. The eye witness has a conflict of interest
  - C. The eye witness does not have formal training on the facts in issue
  - D. The witness has previously made contradictory statements
- (1 mark)
42. Which one of the following statements is **NOT** accurate in regard to answering questions when testifying in court?
- A. A witness should not respond to all questions accordingly
  - B. A witnesses should not evade answering questions
  - C. A witness should evade answering leading questions
  - D. A witness should avoid answering leading questions
- (1 mark)
43. Which one of the following concepts refers to tangible document that is not an exhibit?
- A. Direct evidence
  - B. Demonstrative evidence
  - C. Circumstantial evidence
  - D. Link analysis
- (1 mark)
44. Which one of the following statements **BEST** describes the advocate's objective of asking personal questions that are not relevant to the facts in issue?
- A. It is for purposes of making the witness angry and declare him hostile witness
  - B. It is for purposes of trying to discredit the witness
  - C. It is for purposes of impeaching the witness
  - D. None of the above
- (1 mark)
45. Which one of the following categories of evidence describes an expert witness statement?
- A. Demonstrative evidence
  - B. Circumstantial evidence
  - C. Written testimonial evidence
  - D. None of the above
- (1 mark)

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46. The following questions are allowed during direct examination, **EXCEPT** \_\_\_\_\_.
- open ended questions
  - narrative questions
  - leading questions
  - closed questions
- (1 mark)
47. The jurisdiction where evidence is discovered during trial is \_\_\_\_\_.
- civil law jurisdiction
  - inquisitorial jurisdiction
  - adversarial jurisdiction
  - civil justice system
- (1 mark)
48. Which one of the following statements is **ACCURATE** in regard to questioning of witnesses in adversarial jurisdictions?
- The questioning is conducted by the parties to the litigation
  - The questioning is conducted by the judge
  - The questioning is conducted by both the judge and the parties to the litigation
  - The questioning is conducted by the legal representatives
- (1 mark)
49. Which one of the following statements is **ACCURATE** in regard to role of a court appointed expert in Kenya's Jurisdiction?
- A court appointed expert provides expert opinion in court
  - A court appointed expert express opinion on another expert's opinion
  - A court appointed expert provides circumstantial evidence in court
  - A court appointed expert provides direct testimonial evidence in a court of law
- (1 mark)
50. Which one of the following statements **BEST** describes strict burden of proof in civil litigation?
- In strict burden of proof, both parties to the litigation has the burden to prove their side of the case
  - In strict burden of proof, the plaintiff has the burden to prove their side of the case
  - In strict burden of proof, the defendant has the burden to prove their side of the case
  - None of the above
- (1 mark)

### SECTION II (50 MARKS)

51. (a) Explain **TWO** forms of direct evidence in fraud criminal proceedings in Kenya's jurisdiction. (4 marks)
- (b) (i) Explain the meaning of an exhibit. (1 mark)
- (ii) Identify **TWO** examples of an exhibit in fraudulent disbursements case. (2 marks)
- (c) (i) Explain the meaning of circumstantial evidence. (1 mark)
- (ii) Identify **TWO** examples of circumstantial evidence in a bribery case. (2 marks)
- (d) Explain **TWO** contents of an expert witness statement in a fraud case. (4 marks)
- (e) Explain **THREE** reasons why evidence may not be admissible in court of law in common law jurisdiction. (6 marks)

**(Total: 20 marks)**

52. Discuss **THREE** basic principles of evidence and give one example under each that could make evidence inadmissible in a court of law. **(Total: 15 marks)**
53. (a) Describe how unauthenticated evidence, though admissible in civil law jurisdictions effect the evidence. (2 marks)
- (b) Summarise **TWO** types of evidence that are not admissible in adversarial jurisdictions court proceedings. (4 marks)
- (c) Explain **TWO** types of evidence that can be admissible in inquisitorial court proceedings but not in adversarial court proceedings. (4 marks)
- (Total: 10 marks)**
54. Identify **FIVE** reasons why relevant evidence may not be admissible in a court of law in adversarial jurisdictions like Kenya. **(Total: 5 marks)**

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**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**PILOT PAPER**

**MARCH 2025.**

**Time Allowed: 3 hours.**

**Answer ALL questions. This paper has two Sections. SECTION I consists of fifty (50) Multiple Choice Questions carrying fifty (50) marks. SECTION II has four (4) structured questions carrying fifty (50) marks. Marks allocated to each question are indicated at the end of the question.**

**SECTION I (50 MARKS)**

1. Which one of the following statements is **NOT** accurate in regard to an expert witness in a fraud civil suit in Kenya's jurisdiction?
- A. The plaintiff and the defendant retain their own expert witnesses to assist the court in interpreting the technical facts of the issues in fact to support the side of their case
  - B. The expert witnesses owe a duty to the court during the civil trial judicial proceedings
  - C. The expert witnesses owe a duty to the parties that retained them for purposes of civil trial
  - D. None of the above
- (1 mark)

**ANSWER: C**

2. Which one of the following statements is **NOT** accurate in regard to trial of a fraud case?
- A. A fraud case can be tried as a civil or a criminal case
  - B. A fraud case can be tried as civil and criminal case concurrently
  - C. Fraud is a criminal offence and therefore can only be prosecuted as a criminal case by the prosecution
  - D. The main objective of the prosecution in a fraud criminal judicial proceeding is to ensure the criminal defendant is convicted
- (1 mark)

**ANSWER: D**

3. Which one of the following statements is **ACCURATE** in regard to documentary evidence?
- A. All documents related to the facts in issue are admissible as real evidence
  - B. Documents like financial statements are hearsay evidence, and cannot be introduced as an exhibit to prove fraudulent financial reporting
  - C. An affidavit is not a hearsay evidence because it is prepared by an advocate under oath
  - D. Bank statements of a suspect accused of bribery that show that the suspect deposited substantial amounts of money in his account just around the same time of the alleged bribery can be introduced as an exhibit
- (1 mark)

**ANSWER: B**

4. Which one of the following statements is **NOT** accurate in regard to documents that can be introduced in court as exhibits?
- A. Documents that were in existence before litigation was anticipated
  - B. Documents that are real evidence
  - C. Documents that were only prepared as business transaction
  - D. Documents that are prepared for purposes of court proceedings
- (1 mark)

**ANSWER: D**

5. Which one of the following statements is **NOT** accurate in regard to evidence?
- A. Most adversarial jurisdictions like Kenya have a separate law of evidence
  - B. Civil law legal systems do not have separate law of evidence
  - C. The law of evidence governs the admissibility of evidence in legal proceedings
  - D. The admissibility of evidence highly depends on the trial judge
- (1 mark)

**ANSWER: D**

6. Which one of the following statements is **ACCURATE** in regard to evidence?
- A. A guilty plea can be entered as evidence
  - B. A guilty plea cannot be entered as evidence
  - C. A guilty plea is direct testimonial evidence
  - D. None of the above
- (1 mark)

**ANSWER: B**

7. Which one of the following statements is **ACCURATE** in regard to testimonial evidence in Kenya?
- A. The only types of testimonial evidence include oral direct testimony and expert witness testimony
  - B. A corroborative witness gives expert testimony
  - C. There are several types of oral direct evidence
  - D. There are several types of expert testimony
- (1 mark)

**ANSWER: A**

8. Which one of the following statements is **ACCURATE** in regard to expert opinion testimony?
- A. An expert opinion is a real evidence
  - B. An expert opinion must be based on advanced training on the facts in issue
  - C. An expert witness must have direct personal knowledge of the facts in issue
  - D. None of the above
- (1 mark)

**ANSWER: B**

9. Which one of the following statements is **ACCURATE** in regard to confession?
- A. Confession is real evidence
  - B. Confession is direct evidence
  - C. Confession is a guilty plea
  - D. None of the above
- (1 mark)

**ANSWER: D**

10. Which one of the following statements is **ACCURATE** in regard to questioning of expert in courts in Kenya?
- A. The questioning of an expert witness is conducted by the judge
  - B. The questioning of an expert witness is conducted by the defence counsel only
  - C. The questioning of an expert witnesses is conducted by the parties to the ligation
  - D. None of the above
- (1 mark)

**ANSWER: C**

11. Which one of the following statements is **ACCURATE** in regard to an eye witness testimony?
- A. An eye witness testimony opinion must be prejudicial
  - B. An eye witness testimony must be based on specialised knowledge
  - C. An eye witness testimony can be based on information provided by another person who has personal knowledge of the facts in issue
  - D. None of the above
- (1 mark)

**ANSWER: D**

12. Which one of the following statements concerning criminal bargaining agreements is **ACCURATE**?
- A. Bargaining agreement has experienced a lot of opposition in the common law jurisdictions in the recent years
  - B. Bargaining agreement is practiced more in the inquisitorial jurisdictions than in the adversarial jurisdictions
  - C. Bargaining agreement is not an efficient method of disposing criminal cases
  - D. None of the above
- (1 mark)

**ANSWER: D**

13. Which one of the following statements is **NOT** accurate in regard to an expert witness report or statement?
- A. An expert witness report is not protected by professional legal privileges
  - B. An expert witness report should include the qualification of the expert witness and basis of his/her conclusion
  - C. An expert witness report or statement is a written testimonial evidence
  - D. None of the above
- (1 mark)

**ANSWER: C**

14. Which one of the following is **NOT** one of the three stages of a criminal proceeding in an inquisitorial jurisdiction?
- A. The investigative phase
  - B. The trial phase
  - C. The examination phase
  - D. None of the above
- (1 mark)

**ANSWER: D**

15. Which one of the following is **NOT** one of the three stages of a civil proceeding in common law jurisdictions?
- A. The pre-trial phase
  - B. Trial
  - C. Sentencing
  - D. None of the above
- (1 mark)

**ANSWER: C**

16. Which one of the following statements is **ACCURATE** in regard to expert witness and the trial process in Kenya's jurisdiction?
- A. The examination - in - chief of the trial process is conducted by the parties to the litigation
  - B. The cross - examination can be conducted by both the prosecution and defense counsels
  - C. The examination - in chief of the trial process is conducted by the judge
  - D. None of the above
- (1 mark)

**ANSWER: B**

17. Which one of the following statements is **NOT** accurate in regard to adversarial and inquisitorial jurisdictions in relation to cross-examination?
- A. Both the adversarial and inquisitorial jurisdictions feature cross - examination
  - B. Only the adversarial jurisdictions feature cross-examination
  - C. In most inquisitorial jurisdictions the defense witness can question the court appointed expert
  - D. None of the above
- (1 mark)

**ANSWER: A**

18. Which one of the following parties may access the full evidentiary record prior to the trial phase of a criminal proceeding?
- A. The judge and the prosecution only
  - B. The prosecution only
  - C. The defense
  - D. None of the above
- (1 mark)

**ANSWER: D**

19. Alex is being prosecuted for corruption and abuse of office in Kenya. In his defence, Alex calls a witness to testify to his good character. Which one of the following statements is **ACCURATE** in regard to the character defence?
- A. Alex's witness testimony of good character is a direct testimonial evidence
  - B. Alex's witness testimony of good character is circumstantial evidence
  - C. Alex's witness testimony of good character is a real evidence
  - D. None of the above

(1 mark)

**ANSWER: D**

20. Which one of the following statements **BEST** describes an exhibit in a fraud case?
- A. Fraudulent invoice that was used to demand payment from the organisation
  - B. Fraudulent financial statements
  - C. An analysis of receipts against bank deposits
  - D. None of the above

(1 mark)

**ANSWER: A**

21. Which one of the following statements is **NOT** accurate in regard to expert testimony in judicial proceedings in Kenya?
- A. Expert testimony is a direct oral evidence based on personal knowledge
  - B. Expert testimony involves interpreting the technical matters related to the facts in issue
  - C. Expert testimony assists the judge or jury determine evidence of technical facts in issue
  - D. None of the above

(1 mark)

**ANSWER: A**

22. Which one of the following statements is **ACCURATE** in regard to impeaching an expert witness on claims of conflict of interest?
- A. The expert witness was a high school classmate of the suspect therefore he would have a conflict of interest
  - B. The testifying expert was at university with the client the same year and used to meet regularly during sports activities, therefore he would have a conflict of interest
  - C. The testifying expert was handsomely compensated by the client for his services, therefore he might have a conflict of interest
  - D. None of the above

(1 mark)

**ANSWER: C**

23. Which one of the following statements is **NOT** a question that must be asked to determine whether an expert may testify in court?
- A. Does the expert have the required experience in the facts in issue?
  - B. Is the testimony based from reliable sources?
  - C. Is the testimony relevant to the facts of the case?
  - D. None of the above

(1 mark)

**ANSWER: D**

24. Which one of the following statements describes the standard of proof for civil trials in Kenya's jurisdictions?
- A. Balance of probability
  - B. More likely than not
  - C. The inner conviction of the judge
  - D. Preponderance of evidence

(1 mark)

**ANSWER: A**

25. Which one of the following statements concerning the criminal discovery process in adversarial jurisdictions like Kenya is **ACCURATE**?
- A. Only the defense may request information from a defendant, but the prosecution is not allowed to request for any information
  - B. Only the prosecution and defence are allowed to request for limited information from each other
  - C. A party to the litigation may be allowed to introduce exhibits that were not served to the opposing party before trial
  - D. None of the above
- (1 mark)

**ANSWER: A**

26. Which one of the following statements is **NOT** accurate in regard to witnesses under the Kenya Evidence Act?
- A. A witness called to produce a document is not a court witness
  - B. A witness called to produce a document is not a court witness therefore cannot be cross examined
  - C. A person called to produce a document cannot be cross examined, but can be questioned by the prosecution counsel
  - D. None of the above
- (1 mark)

**ANSWER: C**

27. Which one of the following statements is **NOT** accurate in regard to exhibits?
- A. All documents related to facts in issue are exhibits
  - B. Exhibits are tangible items and forms of real evidence
  - C. Demonstrative evidence is a tangible evidence but is not an exhibit
  - D. None of the above
- (1 mark)

**ANSWER: A**

28. In a common law jurisdiction like Kenya, which one of the following statements is **NOT** a reason that counsel can use to impeach a lay/eye witness?
- A. The lay witness does not have personal knowledge of the facts in issue
  - B. The lay witness has a conflict of interest
  - C. The lay witness does not have technical skills and knowledge on the facts in issue
  - D. The witness is dishonest
- (1 mark)

**ANSWER: C**

29. Which one of the following statements is **NOT** accurate in regard to how a witness should conduct himself when testifying in court?
- A. A witness should refrain from arguing or confronting the defence counsel
  - B. A witness should ask counsel to rephrase a leading question
  - C. A witness should refuse to answer questions where the appropriate answer would support the opposing side
  - D. A witness should not be seen to evade answering questions
- (1 mark)

**ANSWER: C**

30. Which one of the following statements is **NOT** accurate in regard to communication between an attorney and his client?
- A. The client and advocate should keep their communication confidential
  - B. The purpose of communication is to seek legal professional services
  - C. The advocate and client communication cannot be communicated to a third party under any circumstances
  - D. The advocate and client communication can be communicated to a third party for purposes of seeking legal support
- (1 mark)

**ANSWER: C**

31. Which one of the following is **NOT** a trial phase in a civil trial in adversarial jurisdictions?
- A. The pre conference phase
  - B. The trial phase
  - C. Sentencing
  - D. None of the above
- (1 mark)

**ANSWER: C**

32. The form of evidence that illustrates the relationship between transactions and people is \_\_\_\_\_.
- A. direct evidence
  - B. exhibit
  - C. demonstrative evidence
  - D. circumstantial evidence
- (1 mark)

**ANSWER: C**

33. Which one of the following terms **BEST** describes the advocate's technique for making a witness to constantly agree with the defendant's counsel?
- A. Contradiction
  - B. Myopic vision
  - C. Sounding board
  - D. None of the above
- (1 mark)

**ANSWER: C**

34. Which one of the following statements is **NOT** accurate in regard to expert witness in adversarial jurisdictions?
- A. An opposing expert witness cannot testify about the opinions of another expert
  - B. An expert witness can be appointed by the court, to express an opinion on the expert witness opinion, called by the parties to the litigation opinion
  - C. Witnesses are appointed by the parties to the litigation
  - D. None of the above
- (1 mark)

**ANSWER: A**

35. Which one of the following statements is **ACCURATE** in regard to juries in legal trial process in the adversarial jurisdictions in civil and criminal trials?
- A. In most common law jurisdictions, the jury verdict for criminal cases must be unanimous
  - B. In most common law jurisdictions, the jury verdict for serious civil cases must be unanimous
  - C. In most common law jurisdictions, the jury verdict must be unanimous only for serious criminal cases
  - D. In most common law jurisdictions, the jury verdict for both civil cases and criminal must be unanimous
- (1 mark)

**ANSWER: A**

36. A forensic auditor in his report stated that he found that fifty million shillings has been misappropriated. To support the same, he said that he found that the day the money was withdrawn from the account, a few days later the suspect bought a very expensive vehicle that he could not explain the legitimate sources of the funds that he used to acquire the vehicle. Which one of the following describes the evidence stated in the forensic audit report?
- A. Exhibit - motor vehicle
  - B. Circumstantial evidence
  - C. Direct evidence
  - D. Real evidence
- (1 mark)

**ANSWER: B**

37. Which one of the following statements is **NOT** accurate in regard to civil trials in Kenya?
- A. The plaintiff counsel conducts examination in- chief of their witness
  - B. The defendant counsel cross examines the plaintiff witness
  - C. The prosecution counsel can re-examine the plaintiff witness on matters raised during cross examination
  - D. None of the above
- (1 mark)

**ANSWER: D**

38. Which one of the following statements is **NOT** accurate in regard to the rules of admissibility of evidence in adversarial jurisdiction?
- A. The purpose of authentication requirement in most common law systems is to ensure that a document is not fictitious
  - B. The reason for not admitting hearsay evidence in common law jurisdictions is because hearsay evidence is not reliable.
  - C. Character evidence is inadmissible as evidence because it not relevant to the facts in issue
  - D. None of the above
- (1 mark)

**ANSWER: A**

39. Which one of the following **BEST** describe the type of examination conducted by counsels of the parties to the litigation during pre- trial?
- A. Cross-examination
  - B. Re-examination
  - C. Oral/written testimony
  - D. None of the above
- (1 mark)

**ANSWER: C**

40. Which one of the following statements is **ACCURATE** in regard to burden of proof in civil suits?
- A. In adversarial jurisdictions, the burden of proof is with the defendant
  - B. In the adversarial jurisdictions, the burden of proof is with the prosecution
  - C. In inquisitorial jurisdictions, the parties to the litigation have the burden of proof
  - D. None of the above
- (1 mark)

**ANSWER: C**

41. Which one of the following statements is **NOT** accurate in regard to criminal defendant's testimony in both the inquisitorial and adversarial jurisdictions?
- A. In civil law jurisdictions, criminal defendants are required to provide testimony if so directed by the court
  - B. In adversarial jurisdictions, criminal defendants are required to provide testimony if so directed by the court
  - C. In adversarial judicial processes, criminal defendants have a right to remain silent
  - D. In civil law jurisdictions, criminal defendants do not have a right to remain silent
- (1 mark)

**ANSWER: B**

42. Which of the following statement is **NOT** accurate in regard to civil trial court of appeal in the adversarial jurisdiction?
- A. The appellate court can determine only issues of law
  - B. The winning party in a civil trial can also appeal against the judgement
  - C. The appellate court cannot determine issues of evidence
  - D. In a civil trial in adversarial jurisdictions it is only the losing party that can appeal against liability
- (1 mark)

**ANSWER: D**

43. Which ones of the following statements is **ACCURATE** in regard to testimonial and documentary evidence in the adversarial jurisdictions?
- A. Adversarial jurisdictions favour documentary evidence over testimonial evidence
  - B. Adversarial jurisdiction favour documentary evidence because all documents are exhibits and give more weight to the evidence
  - C. Adversarial jurisdiction cannot admit character evidence for conviction purposes but can apply character evidence for sentencing
  - D. None of the above
- (1 mark)

**ANSWER: C**

44. Under the Kenya Evidence Act, which one of the following statement is **ACCURATE**?
- A. Oral direct evidence is a form of real evidence provided by a witness with firsthand information of the facts in issue
  - B. Oral direct evidence is a form of direct evidence provided by a witness with firsthand information of the facts in issue
  - C. Oral direct evidence is a form of circumstantial evidence provided by a witness with firsthand information of the facts in issue
  - D. Oral direct evidence is a form of exhibit provided by a witness with firsthand information of the facts in issue (1 mark)

**ANSWER: B**

45. Which one of the following statement is **NOT** accurate in regard to cross-examination?
- A. During cross-examination in adversarial jurisdictions, it is a general rule for the opposing counsel to cross-examine an expert witness by asking questions that will support the defense
  - B. During cross-examinations in adversarial jurisdictions, it is a general rule for opposing counsel to cross-examine an expert witness by asking leading questions where the answer can be yes or no
  - C. During cross-examinations in adversarial jurisdictions, it is a general rule for opposing counsel to cross-examine an expert witness by asking leading questions where the answer can only be yes (1 mark)
  - D. None of the above

**ANSWER: B**

46. Which one of the following statements in regard to admissibility of evidence in fraud criminal trials is **NOT** accurate?
- A. Physical evidence that is relevant to the facts in issue must be properly authenticated as a requirement for admission to evidence
  - B. Adversarial jurisdictions tend to have more stringent requirements for admissibility of evidence in criminal trials than civil trials
  - C. The objective of restrictions on admissibility of evidence is to ensure that both defendant and prosecution gets fair trial
  - D. The objective of restrictions on admissibility of evidence is to ensure that the defendant gets a fair trial (1 mark)

**ANSWER: C**

47. Which one of the following statements in regard to admissibility of evidence is **ACCURATE**?
- A. Evidence that is relevant and reliable is always admissible in trial proceedings
  - B. In adversarial jurisdictions, relevant evidence to prove other facts in issue will be admissible to prove facts in issue in a trial proceeding
  - C. Evidence that is relevant and reliable can be inadmissible in trial proceedings if the evidence is not relevant to the facts in issue
  - D. None of the above (1 mark)

**ANSWER: C**

48. Which one of the following statements is **ACCURATE** in regard to the standard of proof in a fraud or corruption trial in Kenya jurisdiction?
- A. The evidence must pass the test of reasonable doubts that might be presented by the defense
  - B. Evidence presented must be on balance of probability
  - C. The prosecution evidence must have more weight than that of the defense
  - D. None of the above (1 mark)

**ANSWER: A**

49. In the adversarial jurisdictions relevance and admissibility are basic principles of evidence. Which one of the following evidence is **NOT** admissible?
- A. Real evidence that is relevant to prove other facts associated with the facts in issue
  - B. Exhibits that are relevant to the facts in issue
  - C. Direct oral evidence by a witness
  - D. None of the above (1 mark)

**ANSWER: A**

50. Which one of the following scenarios would **NOT** result to waiver of a client’s legal professional privilege over confidential communications with his attorney?
- A. The client’s counsel shares privileged communications with a consulting expert
  - B. The client intentionally shares privileged communication with an unrelated third party who has no legitimate interest in the matter
  - C. The client accidentally forwards an email with privileged information to unrelated third parties who have no need to know the information
  - D. None of the above
- (1 mark)

**ANSWER: A**

**SECTION II (50 MARKS)**

51. (a) Explain **TWO** differences between direct and circumstantial evidence in fraud case. (4 marks)
- (b) Discuss **THREE** forms of evidence. (6 marks)
- (c) Explain **TWO** types of direct evidence in fraud case. (10 marks)
- (Total: 20 marks)**
52. Explain **THREE** basic principles of evidence. (15 marks)
- (Total: 15 marks)**
53. (a) Explain the concept of “expert witness”. (2 marks)
- (b) Describe **FOUR** roles of expert witness in a court of law. (8 marks)
- (Total: 10 marks)**
54. (a) Outline **TWO** phases of civil litigation in the common law jurisdictions. (2 marks)
- (b) Identify **THREE** phases of criminal trial proceedings in civil law jurisdictions. (3 marks)
- (Total: 5 marks)**
- .....



**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 4 December 2024. Afternoon Paper.**

**Time Allowed: 3 hours.**

**This paper consists of one hundred (100) Multiple Choice Questions. Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. Each question is allocated one (1) mark.**

1. Which one of the following statements is **ACCURATE** in regard to an expert witness testimony fraud in a civil action in Kenya jurisdiction?
  - A. Only the plaintiff retains an expert witness to assist the court in interpreting the technical facts
  - B. Only the defendant retains an expert witness to assist the court in interpreting the technical facts
  - C. The expert witness owes a duty to the parties that appointed them
  - D. The expert witness owes a duty to the court but not the party that appointed them (1 mark)
  
2. Which one of the following statements is **ACCURATE** in regard to fraud prosecution?
  - A. Evidence for fraud trial must be direct to be admissible in a court of law
  - B. Evidence must be of reasonable doubt to be admissible in a court of law
  - C. Evidence presented by persecution must be able to withstand reasonable doubts
  - D. Circumstantial evidence is not admissible in fraud prosecution because the evidence is not beyond reasonable doubts (1 mark)
  
3. Which one of the following statements is **ACCURATE** in regard to hearsay evidence?
  - A. All documents related to the facts in issue are direct evidence
  - B. Financial statements are direct evidence and therefore not hearsay evidence
  - C. An affidavit is direct evidence
  - D. Bank statements of a suspect accused of corruption is circumstantial evidence (1 mark)
  
4. Which one of the following statements **BEST** describes documents that can be introduced in court as exhibits?
  - A. Documents that were in existence before litigation was anticipated
  - B. Documents that played part in the commission of the offence
  - C. Documents that were prepared as a business transaction
  - D. Documents that were prepared by an expert for purposes of litigation (1 mark)
  
5. Which one of the following statements is **NOT** accurate in regard to judicial proceedings in relation to evidence in Kenya's jurisdiction?
  - A. Kenya has a procedural law that sets the rules and procedures of how evidence would be handled
  - B. Judicial legal proceedings in Kenya jurisdiction are strictly governed by the law of evidence
  - C. Administrative proceedings in Kenya are strictly governed by the law of evidence
  - D. Not all legal proceedings in Kenya are strictly governed by the law of evidence (1 mark)

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6. Which one of the following statements is **ACCURATE** in regard to guilty plea?
- A. Guilty plea can be entered as evidence
  - B. Unlike confession in civil law jurisdictions guilty plea is not evidence
  - C. Guilty plea is direct testimonial evidence
  - D. Guilty plea is similar to confession in civil law jurisdiction
- (1 mark)
7. Which one of the following statements is **NOT** accurate in regard to a court appointed expert Kenya?
- A. A court appointed expert provides expert testimonial evidence in court
  - B. A court appointed expert does not provide expert testimonial evidence in court
  - C. A court appointed expert expresses an opinion on the expert testimonial evidence
  - D. A court appointed expert provides direct testimonial evidence in a court of law
- (1 mark)
8. Which one of the following statements is **ACCURATE** in regard to expert opinion?
- A. An expert opinion is based on real evidence
  - B. The expert opinion must be based on expertise on the facts in issue
  - C. The expert opinion must be based on direct personal knowledge of the facts in issue
  - D. The expert opinion must be oral direct evidence
- (1 mark)
9. Which one of the following statements is **MOST ACCURATE** in regard to a written confession statement?
- A. A written confession statement is oral direct evidence
  - B. A written confession statement is testimonial evidence
  - C. A written confession statement is similar to a guilty plea
  - D. A written confession statement is entered as evidence in inquisitorial jurisdictions
- (1 mark)
10. Which one of the following statements is **ACCURATE** in regard to cross examination of witnesses in criminal proceeding in Kenya jurisdiction?
- A. The cross examination of the expert witness is conducted by the presiding judge
  - B. The cross examination of the expert witness is conducted by the trial judge
  - C. The cross examination of the expert witness is conducted by the parties to the criminal prosecution
  - D. The cross examination of the expert witness is conducted by the defendants' counsel
- (1 mark)
11. Which one of the following statements is **ACCURATE** in regard to oral direct evidence in Kenya's jurisdiction?
- A. The eye witness testimony is oral direct
  - B. Oral direct evidence must be based on specialised knowledge
  - C. Oral direct evidence must be based on expertise of the facts in issue
  - D. Oral direct evidence is not type of direct evidence
- (1 mark)
12. Which one of the following statements is **ACCURATE** in regard to bargaining agreements in Kenya's jurisdictions?
- A. Bargaining agreement is not a preferred method of disposing criminal cases
  - B. Bargaining agreement is practiced more in the inquisitorial jurisdictions than in the Kenya's jurisdictions
  - C. Bargaining agreement is not an effective method of disposing criminal cases
  - D. Bargaining agreement is a preferred method of disposing criminal cases
- (1 mark)

13. Which one of the following statements is **ACCURATE** in regard to the expert witness statement?
- A. The expert witness statement is protected by professional legal privileges
  - B. The expert witness statement should include the summary of the evidence
  - C. An expert witness statement is written testimonial evidence
  - D. An expert witness statement is not written testimonial evidence
- (1 mark)
14. Which one of the following is the first phase of the trial phase of a criminal proceeding in Kenya's jurisdiction?
- A. The investigative phase
  - B. The pre-trial phase
  - C. The examination phase
  - D. The trial phase
- (1 mark)
15. Which one of the following court proceedings does **NOT** feature sentencing phase in Kenya?
- A. Civil proceedings
  - B. Criminal proceedings
  - C. Both criminal and civil proceedings
  - D. Criminal prosecution
- (1 mark)
16. Which one of the following statements is **ACCURATE** in regard to criminal trials examinations in Kenya's jurisdiction?
- A. The examination-in chief, during the trial process is conducted by the prosecution
  - B. The cross-examination can be conducted by the prosecution counsel only
  - C. The examination-in chief of the trial process is conducted by the judge
  - D. The cross-examination can be conducted by defence counsel only
- (1 mark)
17. Which one of the following statements is **NOT** accurate in regard to questioning and cross-examination?
- A. Inquisitorial jurisdictions do not conduct cross-examination
  - B. Only the adversarial jurisdictions conduct cross-examination
  - C. In most inquisitorial jurisdictions, the defence witness can question the court appointed expert but not to cross examine
  - D. In most inquisitorial jurisdictions, the defence witness cannot question the court appointed expert
- (1 mark)
18. Which one of the following parties may discover all the evidence to be presented in court during a criminal trial?
- A. The court and the prosecution
  - B. The prosecution only
  - C. The court and the parties to the litigations
  - D. The parties to the criminal proceedings
- (1 mark)
19. Which one of the following statements is **ACCURATE** in regard to good character evidence?
- A. Good character evidence is direct testimonial evidence
  - B. Good character evidence is circumstantial evidence
  - C. Good character evidence is admissible in a court of law
  - D. Good character evidence is not admissible in a court of law
- (1 mark)

20. Which one of the following is an exhibit in a fraud trial?
- A. Fraudulent invoice
  - B. Fraudulent financial statements
  - C. An analysis of receipts and bank deposits
  - D. Direct testimonial evidence
- (1 mark)
21. Which one of the following statements is **ACCURATE** in regard to expert testimony in civil and criminal fraud trials in Kenya?
- A. Expert testimony is not required in civil trials
  - B. Expert testimony is required in criminal trials only
  - C. Expert testimony is required in both civil and criminal trials
  - D. Expert testimony is required in civil trials
- (1 mark)
22. Which one of the following statements is **NOT** accurate in regard to challenging an expert witness on the basis of knowledge?
- A. The expert witness does not have advanced knowledge on the facts in issue
  - B. The expert witness does not have knowledge and skills on the facts in issue
  - C. The expert witness does not have specialised knowledge on the facts in issue
  - D. The expert witness does not have formal training or experience on the facts in issue
- (1 mark)
23. Which one of the following questions is **NOT** asked in regard to an expert witness expert testimony?
- A. Does the expert have the required skills in the facts at issue?
  - B. Is the testimony reliable?
  - C. Is the testimony relevant to the facts of the case?
  - D. Does the expert have firsthand information of the facts in issue?
- (1 mark)
24. Which one of the following statements **BEST** describes the burden of proof in civil proceedings in Kenya's jurisdictions?
- A. Strict burden of proof
  - B. Burden of proof is with the plaintiff
  - C. Burden of proof is with the defence
  - D. Burden of proof is with the prosecution
- (1 mark)
25. Which one of the following is **NOT** a type of direct evidence?
- A. False invoices
  - B. An accomplice testimony against the accused person
  - C. Oral direct evidence
  - D. An expert witness testimony
- (1 mark)
26. Which one of the following parties is **NOT** a fact finder?
- A. A panel of juries
  - B. A judge
  - C. A panel of both legal and lay judges
  - D. The parties to the litigation
- (1 mark)

27. Which one of the following statements is **MOST** accurate in regard to inculpatory evidence?
- A. Evidence that is not inculpatory is not relevant to the facts in issue
  - B. Evidence that is not inculpatory can be relevant to the facts in issue
  - C. Evidence that is not inculpatory is inadmissible in a court of law
  - D. Evidence that is inculpatory must be direct evidence
- (1 mark)
28. Which one of the following should an expert witness **NOT** do while testifying in court?
- A. Be calm and professional
  - B. Not evade answering questions
  - C. Ask counsel to be objective
  - D. Ignore counsel's behaviour
- (1 mark)
29. Which one of the following statements **BEST** explains the main objective of the defence attorney during cross-examination?
- A. To make the witness a sounding board
  - B. To obtain more information from the expert
  - C. To impeach their knowledge
  - D. To impeach their credibility
- (1 mark)
30. Which one of the following is an example of oral direct evidence?
- A. A testimony from a character witness
  - B. A testimony by an expert witness
  - C. A co-accused testimony against the accused
  - D. Testimony based on inference
- (1 mark)
31. Which one of the following is an example of impeachment based on the witness's credibility?
- A. The expert witness has previously been convicted of a crime
  - B. The expert is not well trained on the subject matter
  - C. The expert does not have advanced training on the subject matter
  - D. The expert does not have essential skills and experience on the facts in issue
- (1 mark)
32. Which one of the following statements is **NOT** accurate in regard to recording of evidence in the civil law jurisdiction?
- A. The parties to the litigation assist in ensuring that the evidence is recorded accurately
  - B. Evidentiary record is created by presiding judge
  - C. The parties to the litigation document their own evidence
  - D. Evidentiary record is created during the examination phase
- (1 mark)
33. Which one of the following statements is **ACCURATE** in regard to admissibility of evidence in common jurisdictions?
- A. Evidence must be relevant to the allegations
  - B. Prejudicial evidence is admissible if it is relevant to the facts
  - C. All relevant evidence is admissible
  - D. Circumstantial evidence is not relevant and therefore inadmissible
- (1 mark)

34. Which one of the following statements is **ACCURATE** in regard to admissibility of hearsay evidence?
- A. Documents that were in existence before litigation and are relevant to the facts in issue
  - B. Documents are exhibits and therefore admissible
  - C. Hearsay evidence is not admissible under any circumstances
  - D. Hearsay is testimonial evidence
- (1 mark)
35. Which one of the following is an objective of cross-examination counsel by making the expert contradict themselves?
- A. To impeach their credibility
  - B. To impeach their knowledge
  - C. Making the expert agree that the investigation was myopic
  - D. Creating a false sense of security
- (1 mark)
36. Which one of the following statements is **ACCURATE** in regard to an expert witness conclusion on the alleged facts in issue?
- A. The expert must conclude if the alleged facts in issue occurred
  - B. The expert must conclude if the alleged facts in issue did not occur
  - C. The expert must conclude if the alleged facts in issue are relevant
  - D. The expert must conclude if the accused person is guilty or not
- (1 mark)
37. Which one of the following statements is **ACCURATE** in regard to special rules of admissibility of documents in a fraud trial?
- A. The document must be an exhibit
  - B. The document must be produced in court by a witness
  - C. The document must be certified
  - D. The document must be real evidence
- (1 mark)
38. Which one of the following statements is **MOST** accurate in regard to duty to preserve evidence in common law jurisdiction?
- A. The duty arises when investigation commences
  - B. The duty arises before investigation
  - C. The duty arises when litigation is reasonably anticipated
  - D. The duty arises when litigation is anticipated
- (1 mark)
39. Which one of the following statements is **MOST** accurate in regard to disclosure of evidence in criminal trial in adversarial jurisdictions?
- A. The prosecution is entitled to limited information
  - B. The prosecution is entitled to all information that will be presented in court
  - C. Both the prosecution and defence are entitled to exhibits only
  - D. The criminal defendant is entitled to limited information
- (1 mark)
40. Which one of the following statements is **NOT** accurate in regard to waiver of professional legal privileges?
- A. Waiver of a legal professional privilege occurs when attorney shares information with a fraud examiner
  - B. Legal professional privileges can be extended to a third-party under some circumstances
  - C. Legal professional privileges can be extended to a third-party for legal support services
  - D. Waiver of a legal professional privilege cannot occur when attorney shares information with a consulting expert
- (1 mark)

41. Which one of the following **BEST** describes an expert appointed to express an opinion on another expert opinion in the adversarial jurisdiction?
- A. Consulting expert
  - B. Testifying Expert
  - C. Court expert
  - D. Eye witness
- (1 mark)
42. Which one of the following statements is **MOST** accurate in regard to appointment of expert witnesses in inquisitorial jurisdiction in civil trials?
- A. In inquisitorial jurisdictions, the parties to the litigation can appoint their own expert witnesses
  - B. In the civil law jurisdictions, the defence cannot appoint their own expert witness
  - C. In the civil law jurisdictions, the plaintiff cannot appoint their own expert witness
  - D. In the civil law jurisdictions, the parties to the litigation cannot appoint their own primary expert witnesses
- (1 mark)
43. Which one of the following statements is **ACCURATE** in regard to civil appellate courts in adversarial jurisdictions?
- A. In most adversarial jurisdictions a civil appellate court generally interviews additional witnesses and expert witnesses and collects new documentary evidence
  - B. In most common law jurisdictions, a civil appellate court can review issues of facts and make a determination
  - C. In most common law jurisdictions, a civil appellate court can order for a fresh trial and refer the case to the high court
  - D. In most common law jurisdictions, a civil appellate court cannot review issues of facts
- (1 mark)
44. Which one of the following **BEST** describes the type of evidence associated with unexplained assets?
- A. Documentary evidence
  - B. Real evidence
  - C. Exhibits evidence
  - D. Circumstantial evidence
- (1 mark)
45. Which one of the following types of questions is the opposing counsel likely to use on the prosecution expert witness?
- A. Complex questions
  - B. Hypothetical questions
  - C. Leading questions
  - D. Alternative questions
- (1 mark)
46. Which one of the following statements does **NOT** describe the role of the parties' counsel in civil trial in adversarial jurisdiction?
- A. The advocates conduct the questioning of the witnesses
  - B. The defence counsel cross examines the prosecution witness
  - C. The prosecution drives the discovery of evidence
  - D. The parties to the litigation drive the discovery of evidence
- (1 mark)

47. Which one of the following types of question is the defence counsel unlikely to use during cross examination?
- A. Open questions
  - B. Closed questions
  - C. Leading questions
  - D. Difficult questions
- (1 mark)
48. Which one of the following items should be included in the trial record of civil litigation in adversarial jurisdictions?
- A. All documents related to the facts in issue
  - B. A word-for-word transcript of all oral testimony
  - C. Witnesses' statements
  - D. Information provided by witnesses
- (1 mark)
49. Which one of the following statements is **NOT** accurate in regard to fraud civil trial in Kenya's jurisdiction?
- A. The plaintiff counsel conducts, examination in- chief of their witness
  - B. The defendant counsel can cross examines the plaintiff witness
  - C. The prosecution counsel can re-examine the plaintiff witness on matters raised during cross examination
  - D. The plaintiff counsel can re-examine the plaintiff witness on matters raised during cross examination
- (1 mark)
50. Which one of the following statements is **NOT** accurate in regard to the best rules of admissibility of evidence in common law jurisdiction?
- A. The purpose of authentication requirement in most adversarial jurisdictions is to ensure that a document is relevant to the facts in issue
  - B. Hearsay evidence is not admissible in common law jurisdictions because hearsay evidence is not reliable
  - C. Character evidence is inadmissible as evidence because it not relevant to the facts in issue
  - D. The purpose of authentication requirement in most adversarial jurisdictions is to ensure that the document is what is purported to be
- (1 mark)
51. Which one of the following statements is **ACCURATE** in regard to burden of proof in civil suits in common law jurisdiction?
- A. In adversarial jurisdictions, the burden of proof is with the defendant
  - B. In the adversarial jurisdictions, the burden of proof is with the prosecution
  - C. In adversarial jurisdictions, the parties to the litigation have the burden of proof
  - D. In adversarial jurisdictions, the burden of proof is with the party that took the case to court
- (1 mark)
52. Which one of the following statements is **MOST** accurate in regard to criminal defendant testifying in court?
- A. In civil law jurisdictions, criminal defendants are sometimes required to provide testimony
  - B. In adversarial jurisdictions, criminal defendants are sometimes required to provide testimony
  - C. In both adversarial and inquisitorial jurisdictions, criminal defendants are required to testify in court
  - D. In civil law jurisdictions, criminal defendants have a right not to testify
- (1 mark)
53. Which one of the following statements is **NOT** accurate in regard to an appeal against damages remedy in common law jurisdictions?
- A. The plaintiff can appeal against remedy awarded by the high court
  - B. Only the defendant can appeal against damages remedy award to the plaintiff
  - C. The court of appeal has jurisdiction in an appeal against damages remedy
  - D. In a civil trial in adversarial jurisdictions, both the losing and winning party can appeal
- (1 mark)

54. Which one of the following statements is **ACCURATE** in regard to the preferred evidence in most adversarial jurisdictions?
- A. Most adversarial jurisdictions favour testimonial evidence
  - B. Most adversarial jurisdiction favour documentary evidence because documentary evidence has more evidentiary weight
  - C. Most adversarial jurisdiction can admit character evidence to corroborate documentary evidence
  - D. Most adversarial jurisdictions favour documentary evidence because documents provide strong evidence
- (1 mark)
55. Which one of the following statements is **ACCURATE** in regard to the Law of evidence in Kenya?
- A. Oral direct evidence is a type of circumstantial evidence
  - B. Oral direct evidence is a type of direct evidence
  - C. Oral direct evidence is a form of real evidence
  - D. Oral direct evidence is a form of expert testimony
- (1 mark)
56. Which one of the following statements is **NOT** accurate in regard to defence counsel obvious rule?
- A. The obvious rule for the defence counsel is to cross-examine an expert witness by asking questions that will support the defence side
  - B. The obvious rule for the defence counsel is to cross-examine an expert witness and ask leading questions where the answer can only be yes
  - C. The obvious rule is opposing counsel to cross-examine an expert witness by asking leading questions where the answer can only be yes
  - D. The obvious rule is opposing counsel to cross-examine an expert witness by asking open questions to ensure that the witness contradict themselves to their disadvantage
- (1 mark)
57. Which one of the following statements is **MOST** accurate in regard to the rules of evidence in adversarial jurisdictions?
- A. Relevant and reliable evidence is admissible during court proceedings
  - B. Relevant evidence to prove other facts in issue will be admissible during court proceedings
  - C. Relevant and reliable evidence can be inadmissible in trial proceedings if the evidence is not admissible
  - D. The obvious rule is opposing counsel to cross-examine an expert witness by asking leading questions
- (1 mark)
58. Which one of the following statements is **ACCURATE** in regard to the standard of proof in a false claim from government revenue in criminal proceedings?
- A. The evidence must withstand the test of reasonable doubt
  - B. Evidence presented must be on balance of probability
  - C. The prosecution evidence must have more weight than that of the defence
  - D. Evidence presented must be the inner conviction
- (1 mark)
59. Which one of the statements is **ACCURATE** in regard to relevance and admissibility of evidence under the evidence Act?
- A. Relevance and admissibility are the two basic principles of evidence
  - B. Relevant evidence is automatically admissible
  - C. Admissible evidence is automatically admitted
  - D. Relevance is the only basic principle of evidence
- (1 mark)

60. Which one of the following circumstances will **NOT** lead to waiver of a client's legal professional privilege over confidential communications with his attorney?
- A. The client's counsel shares privileged communications with a third party for purposes of legal support
  - B. The client intentionally shares privileged communications with an unrelated third party who has no legitimate interest in the matter
  - C. The client accidentally forwards an email with privileged information to unrelated third parties who have no need to know the information
  - D. The client unintentionally forwards an email with privileged information to unrelated third parties who have no need to know the information (1 mark)
61. Which one of the following statements is **ACCURATE** in regard to questioning of court expert witnesses in inquisitorial jurisdictions?
- A. In inquisitorial jurisdiction, the court appoints the primary expert witness to question witnesses of the parties to the litigation
  - B. In inquisitorial jurisdiction, the parties to the litigation can appoint their own expert witnesses
  - C. In inquisitorial jurisdiction, the party's expert witnesses cannot question the court appointed expert witness
  - D. In inquisitorial jurisdiction, the party's expert witnesses cannot be cross examined (1 mark)
62. Which one of the following statements is **ACCURATE** in regard to tribunal proceedings and evidence?
- A. The evidence Act shall not strictly apply to tribunal proceedings
  - B. The evidence Act shall strictly apply to tribunal proceedings
  - C. The evidence Act relevance principle shall not apply to tribunal proceedings
  - D. The evidence Act shall not apply in respect of the tribunal proceedings (1 mark)
63. Which one of the following statements is **MOST** accurate in regard to admissibility of confession in criminal prosecution in Kenya jurisdiction?
- A. Confession is admissible as direct evidence
  - B. Confession is admissible as a guilty plea
  - C. Confession is not automatically admissible as evidence
  - D. Confession is automatically entered as evidence (1 mark)
64. Which one of the following statements is **ACCURATE** in regard to prove of kickback offences?
- A. Most of the kickback offences are proved with exhibits
  - B. Most of the kickback offences are proved with oral direct evidence
  - C. Most of the kickback offences are proved with circumstantial evidence
  - D. Most of the kickback offences are proved with documentary evidence (1 mark)
65. Which one of the following questions is **NOT** allowed during re-examination?
- A. Open questions
  - B. Narrative questions
  - C. Closed questions
  - D. Leading questions (1 mark)

66. Which one of the following statements is **MOST** accurate in regard to re-examination?
- A. The prosecution counsel must conduct re-examination of the witness after the cross examination
  - B. The prosecution counsel can conduct re-examination of the witness after the cross examination
  - C. The prosecution counsel cannot conduct re-examination of the witness after the cross examination
  - D. The prosecution counsel must conduct re-examination of the witness to diminish the importance of the cross examination (1 mark)
67. Which one of the following is **NOT** accurate in regard to cross examinations in fraud trials?
- A. Unlike the prosecution counsel, the defence counsel can ask leading questions
  - B. Defence counsel can ask leading questions after re-examination by the prosecution counsel
  - C. Prosecution counsel can cross examine the defence witness
  - D. Defence counsel can only ask closed questions during cross examination (1 mark)
68. Which one of the following statements is **ACCURATE** in regard to examination of the expert witness by the prosecution in fraud criminal trials?
- A. During examination in chief, the prosecution is not allowed to influence the witness through questioning
  - B. During examination in chief, the prosecution is allowed to ask the prosecution witness leading questions because they are not confrontational
  - C. During examination in chief, the expert witness should avoid responding to leading questions
  - D. During the examination in chief, the expert witness can avoid responding to questions that might support the defence side (1 mark)
69. Which one of the following is an exception of the hearsay rule and can be admissible in a court of law?
- A. Former testimony
  - B. Statement in interest
  - C. Financial statements
  - D. All documents related to the facts in issue (1 mark)
70. Which one of the following statements is **NOT** hearsay evidence?
- A. Financial statements
  - B. Reconciliation statements
  - C. Data analysis summary
  - D. A fraudulent invoice (1 mark)
71. Which one of the following is **NOT** one of the special rules related to evidence?
- A. Rule against specialised technical opinions
  - B. Rule against character evidence
  - C. Rule against best evidence
  - D. Rule against hearsay evidence (1 mark)
72. Which one of the following is a rule associated with admissibility of documentary evidence?
- A. The rule of primary evidence
  - B. The rule of secondary evidence
  - C. The best rule of evidence
  - D. The rule of authentication (1 mark)

73. Which one of the following statements is **NOT** accurate in regard to admissibility of electronic evidence in Kenya's jurisdiction?
- A. In legal proceedings electronic messages and digital materials will be admissible as evidence
  - B. Electronic evidence requires authentication to be admissible as evidence
  - C. Electronic evidence does not require the same authentication as physical evidence
  - D. Electronic evidence does require the same authentication as physical evidence (1 mark)
74. Which one of the following statements is **NOT** accurate in regard to character evidence in fraud criminal trials in Kenya?
- A. Character witness may testify to the defendant's fraudulent character as evidence to prove the facts in issue
  - B. In fraud criminal trials, the defendant character witness cannot testify to the defendant's good character based on specifics
  - C. In criminal trials, character witness cannot testify to the defendant's fraudulent and character as evidence to prove the facts in issue
  - D. In criminal trials, the defendant character witness can testify to the defendant's good character (1 mark)
75. Which one of the following statements is **MOST** accurate in regard to questioning by counsels of the parties to the litigation in common law jurisdictions?
- A. The prosecution counsel conducts the questioning of their witness
  - B. The defence counsel conducts the cross examination of their own witness
  - C. The defence counsel conduct questioning of the prosecution witness
  - D. The prosecution counsel conducts the questioning of their witness and also the defence witness (1 mark)
76. Which one of the following statements is **NOT** accurate in regard to a fraud criminal trial in the adversarial jurisdictions?
- A. The prosecution must serve the defendant with evidence that tends to explain the defendant 'guilt away and also evidence incriminating the defendant
  - B. The main purpose of the prosecution in a fraud criminal judicial proceeding is not to ensure that the criminal defendant is convicted
  - C. The main objective of the prosecution in a fraud criminal court proceeding is to ensure justice
  - D. In a criminal fraud trial, the criminal defendant must provide evidence to prove they did not commit the offence (1 mark)
77. Which one of the following statements is **NOT** accurate in regard to admissibility of records?
- A. Any document related to the facts in issue is an exhibit
  - B. Financial statements are hearsay evidence
  - C. Bank statements of a suspect is real evidence
  - D. An eye witness testimony statement is not an exhibit (1 mark)
78. Which one of the following statements is **ACCURATE** in regard to confessions in inquisitorial jurisdictions?
- A. Confession is real evidence
  - B. Confession is direct evidence
  - C. Confession is the same as guilty plea
  - D. Confession is not direct evidence (1 mark)

79. Which one of the following statements is **ACCURATE** in regard to expert witness courts in Kenya?
- A. The questioning of the expert witness is conducted by the defence counsel only
  - B. The questioning of the expert witness is conducted during examination in chief and re-examination
  - C. The questioning of the expert witnesses is conducted only during cross examination by the defence counsel
  - D. The questioning of the expert witnesses is conducted only during examination in chief by the prosecution counsel (1 mark)
80. Which of the following statements is **MOST** accurate in regard to evidence produced in court?
- A. Evidence must be properly authenticated to be admissible in a court of law
  - B. Testimonial evidence must be properly authenticated to be admissible in a court of law
  - C. Exhibit must be properly authenticated to be admissible in a court of law
  - D. Both demonstrative and real evidence must be properly authenticated to be admissible in a court of law (1 mark)
81. Which one of the following statements is **MOST** accurate in regard to experts in inquisitorial jurisdictions in fraud civil litigation?
- A. In most inquisitorial jurisdictions, the judge conducts the questioning of the defendant
  - B. In most inquisitorial jurisdictions, the defendant's counsel can cross examine the court's expert witness
  - C. In most inquisitorial jurisdictions, the defendant's counsel cannot question the court's expert witness
  - D. In most inquisitorial jurisdictions, the trial judge cannot question the court's expert (1 mark)
82. Which one of the following statements is **ACCURATE** in regard to oral direct testimony?
- A. The eye witness testimony must be oral direct evidence
  - B. The eye witness testimony must be based on technical knowledge of the facts being litigated
  - C. The eye witness testimony can be based on information provided by another person who has personal knowledge of the facts in issue
  - D. The eye witness testimony must be written direct evidence (1 mark)
83. Which one of the following statements is **NOT** accurate in regard to disclosure witnesses' statements that will be produced in court in adversarial jurisdictions?
- A. The prosecution expert witness statement must be discovered by the defence
  - B. The consulting expert report must be discovered by the defence
  - C. The expert witness statement is not protected from discovery by the defence
  - D. The expert witness report cannot be disclosed to the defence (1 mark)
84. Which one of the following is a phase of a criminal trial in inquisitorial jurisdiction?
- A. Pre-trial phase
  - B. The trial phase
  - C. Oral written examination phase
  - D. Direct examination phase (1 mark)
85. Which one of the following statements is **ACCURATE** in regard to expert witness examinations trial process in the Kenya jurisdiction?
- A. The cross-examination is conducted by the parties to the litigation
  - B. The cross-examination can only be conducted by the defence counsel
  - C. The examination- in chief is conducted by the parties to the litigation
  - D. The re-examination is conducted by the parties to the litigation (1 mark)

86. Which of one the following statements is **ACCURATE** in regard to the court examination conducted after cross – examination?
- A. Defence counsel can re- examine the expert witness after examination in chief
  - B. The prosecution will consider whether conducting re-examination would benefit their side of the case
  - C. Defence counsel cannot cross examine the expert witness after re-examination
  - D. The prosecution counsel cannot re-examine the expert witness after cross examination (1 mark)
87. In adversarial jurisdictions, which one of the following parties may not discover evidence to be presented in court before trial in criminal prosecution?
- A. The parties to the criminal proceedings
  - B. The prosecution
  - C. The judge
  - D. The defence (1 mark)
88. Which one of the following statements is **ACCURATE** in regard to evidence and witnesses in Kenya’s jurisdiction?
- A. A character witness is a court witness
  - B. A court appointed expert is a court witness
  - C. A producing a document in court is a court witness
  - D. An expert witness is a court witness (1 mark)
89. Which one of the following statements is **NOT** accurate in regard to expert opinion in Kenya’s jurisdiction?
- A. An expert witness opinion is not testimonial direct evidence
  - B. Expert testimony is an expert opinion based on specialised skills and knowledge
  - C. Expert testimony is an expert opinion based on observation and findings during investigations
  - D. Expert testimonial is not oral direct evidence (1 mark)
90. Which one of the following statements is **NOT** of great concern of the court in regard to whether a witness is qualified as an expert on the matter being tried?
- A. Does the expert have technical skills in the subject matter being litigated?
  - B. Does the expert have specialised training or professional qualification on the subject matter being litigated?
  - C. Does the expert have advanced education on the subject matter being litigated?
  - D. Is the expert witness credible to testify in a court of law? (1 mark)
91. Which one of the following parties **BEST** describes the party that does not have burden of proof in civil trial in Kenya jurisdiction?
- A. Both parties to the litigation
  - B. The prosecution
  - C. The defendant
  - D. The Plaintiff (1 mark)
92. Which one of the following documents is a type of direct evidence that prosecution can present to prove fraudulent financial reporting in Kenya’s jurisdictions?
- A. The defendant’s bank statements
  - B. Concealed invoices
  - C. Confession from the defendant
  - D. Payment vouchers (1 mark)

93. Which one of the following parties may determine evidence in serious civil trials in inquisitorial jurisdictions?
- A. A panel of juries
  - B. A panel of judges
  - C. A panel of lay and legal judges
  - D. The judge
- (1 mark)
94. Which one of the following statements is **NOT** accurate in regard to relevance of evidence in fraud criminal proceedings?
- A. For evidence to be admissible, it must be relevant to the alleged offence
  - B. For evidence to be admissible, it must be incriminating
  - C. Relevant evidence is either inculpatory or exculpatory
  - D. Prosecution should produce both inculpatory and exculpatory evidence
- (1 mark)
95. Which one of the following statements is **ACCURATE** in regard to the appointment of an expert witness in an economic criminal trial in Kenya's jurisdiction?
- A. The court can appoint an expert witness to express an opinion
  - B. The court cannot appoint an expert witness in common law jurisdictions
  - C. The court can appoint an expert witness to provide evidence
  - D. Only the parties to the criminal proceedings can appoint an expert
- (1 mark)
96. Which one of the following documents is an example of indirect evidence?
- A. A fraudulent invoice
  - B. A forged cheque
  - C. Unexplained funds
  - D. A paid cheque
- (1 mark)
97. Which one of the following is a type of direct evidence in a corruption proceeding?
- A. A witness testimony
  - B. Unexplained assets
  - C. Oral direct evidence
  - D. A co-accused testimony
- (1 mark)
98. Which one of the following statements is **ACCURATE** in regard to prosecution bargaining?
- A. Guilty plea can be entered as direct evidence if admitted by the court
  - B. Guilty plea is not evidence
  - C. Guilty Plea is a confession by the accused person
  - D. Guilty plea is considered alongside other evidence during trial
- (1 mark)
99. Which one of the following statements is **NOT** accurate in regard to witnesses' evidence in Kenya?
- A. Witness evidence can be oral direct evidence
  - B. Witness evidence can be expert opinion
  - C. Witness written statement can be an exhibit
  - D. Witness statement can be direct or circumstantial
- (1 mark)

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100. Which one of the following statements is **ACCURATE** in regard to the objective of the defence counsel asking “since you are the expert, kindly explain how departure from Financial Reporting Standards would affect financial statements”?
- A. The objective of this kind of question is to confirm facts presented by the expert witness
  - B. The purpose of this kind of question is to seek answers from the expert witness
  - C. The purpose of this kind of question is to make the expert witness contradict himself
  - D. The purpose of this kind of question is to create a false sense of security
- (1 mark)

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**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 21 August 2024. Afternoon Paper.**

**Time Allowed: 3 hours.**

**This paper consists of one hundred (100) Multiple Choice Questions. Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. Each question is allocated one (1) mark.**

1. Which one of the following statements is **NOT** accurate in regard to appointment of an expert witness in a fraud civil trial in Kenya's jurisdiction?
  - A. The plaintiff and the defendant retain their own expert witnesses to assist the court in interpreting technical facts of the issues in fact to support the side of their case
  - B. The expert witnesses owe a duty to the court during the civil trial judicial proceedings
  - C. The expert witnesses owe a duty to the parties that appointed them for purposes of civil trial judicial proceedings
  - D. None of the above (1 mark)
  
2. Which one of the following statements is **ACCURATE** in regard to criminal fraud trials?
  - A. A fraud case can be litigated as a civil case
  - B. A fraud case cannot be prosecuted as civil and criminal case concurrently
  - C. Fraud is a criminal offence and therefore can only be prosecuted as a criminal case by the prosecution and not private parties
  - D. The main objective of the prosecution in a fraud criminal judicial proceeding is to recover damages through court remedy (1 mark)
  
3. Which one of the following statements is **ACCURATE** in regard to documents and evidence in fraud allegations?
  - A. All documents related to facts in issue are direct evidence
  - B. Financial statements are hearsay evidence
  - C. An affidavit is not a hearsay evidence
  - D. Bank statements of a suspect accused of bribery that show that the suspect deposited big amounts of money in his account during the same time of the alleged bribery can be introduced as an exhibit (1 mark)
  
4. Exhibits are evidences that can be used to directly prove fraud and corruption cases.

With reference to the above statement, which one of the following statements is **NOT** accurate in regard to documents that can be introduced in court as exhibits to prove a fraud case?

  - A. Documents that were in existence before litigation was anticipated
  - B. Documents that played part in the commission of the offence
  - C. Documents that were prepared as a business transaction
  - D. Documents that were prepared by consulting experts (1 mark)
  
5. Which one of the following statements is **NOT** accurate in regard to law of evidence in Kenya?
  - A. Kenya has a separate law of evidence
  - B. Judicial legal proceedings in Kenya's jurisdiction are strictly governed by the law of evidence
  - C. All legal proceedings in Kenya are strictly governed by the law of evidence
  - D. Not all legal proceedings in Kenya are strictly governed by the law of evidence (1 mark)
  
6. Which one of the following statements is **ACCURATE** in regard to bargaining agreement in Kenya's jurisdiction?

- A. Guilty plea can be entered as evidence  
 B. Guilty plea cannot be entered as evidence  
 C. Guilty plea is direct testimonial evidence  
 D. Guilty plea is oral direct evidence (1 mark)
7. Which one of the following statements is **NOT** accurate in regard to testimonial evidence in Kenya?  
 A. There are only two types of testimonial evidence; namely, oral direct testimony and expert witness testimony  
 B. A corroborative witness provides oral direct evidence  
 C. There can be several oral direct evidence in a given case  
 D. A court appointed expert provides testimonial evidence (1 mark)
8. In Kenya, expert witnesses are allowed to draw conclusions and express opinions. Which one of the following statements is **ACCURATE** in regard to expert opinion testimony?  
 A. An expert opinion is a real evidence  
 B. The expert opinion must be based on training and experience on the facts in issue  
 C. The expert witness must have direct personal knowledge of the facts in issue  
 D. The expert witness is direct evidence (1 mark)
9. Kevin, a fraud defendant in civil jurisdiction provided a written confession statement to the prosecution. Which one of the following statements is **MOST** accurate in relation to the written confession statement?  
 A. Kevin's written confession statement is physical item and therefore it is an exhibit  
 B. Kevin's confession is a written testimonial evidence  
 C. Kevin's confession is a guilty plea  
 D. None of the above (1 mark)
10. Which one of the following statements in regard to questioning of an expert witness in criminal proceeding in Kenyan courts is **ACCURATE**?  
 A. The questioning of an expert witness is conducted by the presiding judge  
 B. The questioning of an expert witness is conducted by the trial judge  
 C. The questioning of an expert witness is conducted by the parties to the criminal proceedings  
 D. The questioning of an expert witness is conducted by the prosecution (1 mark)
11. Which one of the following statements is **ACCURATE** in regard to an eye witness testimony in Kenya's jurisdiction?  
 A. The eye witness testimony opinion must be oral direct  
 B. The eye witness testimony opinion must be based on specialised knowledge  
 C. The eye witness testimony can be based on information provided by another person who has personal knowledge of the facts in issue  
 D. None of the above (1 mark)
12. Which one of the following statements concerning criminal bargaining agreements in Kenya is **ACCURATE**?  
 A. Bargaining agreement has experienced a lot of opposition in Kenya's jurisdictions in recent years  
 B. Bargaining agreement is practiced more in the inquisitorial jurisdictions than in Kenya's jurisdictions  
 C. Bargaining agreement is an efficient method of disposing criminal cases  
 D. None of the above (1 mark)
13. Which one of the following statements is **NOT** accurate in regard to an expert witness report or statement?  
 A. The expert witness report is protected by professional legal privileges  
 B. The expert witness report should include the qualification and expertise of the expert witness and basis of his/her conclusion  
 C. The expert witness report should include the basis of their conclusion  
 D. An expert witness report or statement is not a written testimonial evidence (1 mark)
14. The following are trial phases of a criminal proceeding in an inquisitorial jurisdiction, **EXCEPT** \_\_\_\_\_.  
 A. The investigative phase  
 B. The pre-trial phase  
 C. The examination phase  
 D. The trial phase (1 mark)
15. The following are trial phases of a civil litigation in Kenya, **EXCEPT** \_\_\_\_\_.

- A. The pretrial phase  
B. Trial  
C. Sentencing  
D. Examination phase (1 mark)
16. Which one of the following statements is **ACCURATE** in regard to expert testimony in criminal trials in Kenya's jurisdiction?  
A. The examination- in chief during the trial process is conducted by the prosecution  
B. The cross-examination can be conducted by the prosecution counsel only  
C. The examination- in chief of the trial process is conducted by the judge  
D. The cross-examination can be conducted by defense counsel only (1 mark)
17. Which one of the following statements is **NOT** accurate in relation to adversarial and civil jurisdictions in regard to cross-examination?  
A. Inquisitorial jurisdictions do not conduct cross - examination  
B. Only the adversarial jurisdictions conduct cross-examination  
C. In most inquisitorial jurisdictions, the defense witness can question the court appointed expert  
D. In most inquisitorial jurisdictions, the defense witness cannot question the court appointed expert (1 mark)
18. Which one of the following parties in inquisitorial jurisdictions may access the full evidentiary record prior to the trial phase of a criminal proceeding?  
A. The judge and the prosecution only  
B. The prosecution only  
C. The court and the parties to the criminal proceedings  
D. Only the parties to the criminal proceedings (1 mark)
19. Abdi is being prosecuted for abuse of office in Kenya. In his defense, Abdi appoints a witness to testify to his good character. Which one of the following statements is **ACCURATE** in regard to the defense?  
A. Abdi's testimony of good character is direct testimonial evidence  
B. Abdi's testimony of good character is circumstantial evidence  
C. Abdi's testimony of good character is oral evidence  
D. Abdi's testimony is not evidence (1 mark)
20. Which one of the following evidences is a type of real evidence in a fraud case?  
A. Fraudulent invoice  
B. Fraudulent financial statements  
C. A summary of receipts against bank deposits  
D. Direct testimonial evidence (1 mark)
21. Which one of the following statements is **NOT** accurate in regard to expert testimony in Kenya?  
A. Expert testimony is a direct oral evidence  
B. Expert testimony involves interpreting the technical matters related to the facts in issue  
C. Expert testimony assists the judge or jury to determine evidence of technical facts in issue  
D. An expert witness testimony is an expert opinion (1 mark)
22. Which one of the following statements is **NOT** accurate in regard to impeachment of an expert witness on allegations of conflict of interest?  
A. The expert witness has a close relationship with client  
B. The compensation for his services was exaggerated  
C. The expert witness attended the same university during the same period  
D. None of the above (1 mark)
23. Which one of the following questions is **NOT** necessary to determine whether a witness is actually an expert?  
A. Does the expert have the required experience in the facts at issue?  
B. Is the testimony based from reliable sources?  
C. Is the testimony relevant to the facts of the case?  
D. Does the expert have personal knowledge of the facts in issue? (1 mark)
24. Which one of the following statements **BEST** describes the burden of proof for civil trials in Kenya's jurisdictions?

- A. Strict burden of proof  
 B. Burden of proof is with the plaintiff  
 C. Burden of proof is with defense  
 D. The parties to the litigation have the burden of proof (1 mark)
25. Hussein is being prosecuted in Kenya for financial statement fraud. Which one of the following evidences is **NOT** a type of direct evidence that can be produced to prove financial statement fraud?  
 A. False invoices entered into the books of account to overstate revenue  
 B. An accomplice testimony against the accused person  
 C. An eye witness who can provide oral direct evidence based on personal knowledge of the facts in issue  
 D. An expert witness testimony (1 mark)
26. Which one of the following parties may serve as fact finders in criminal proceedings in civil jurisdictions?  
 A. A panel of juries  
 B. A judge  
 C. A panel of both legal and lay judges  
 D. None of the above (1 mark)
27. Which one of the following statements is **MOST** accurate in regard to relevant evidence?  
 A. All relevant evidence must be exculpatory  
 B. All relevant evidence must be inculpatory  
 C. Exculpatory evidence is not relevant evidence because it tends to explain guilt away  
 D. All relevant evidence is either exculpatory or inculpatory (1 mark)
28. Sammy, a Certified Fraud Examiner is testifying in court as an expert witness in Kenya's jurisdiction. During cross-examination, the defense counsel invades Sammy's body space. Which one of the following actions should Sammy **NOT** do?  
 A. Remain calm and professional  
 B. Continue answering question and ignore the counsel's behaviour  
 C. Ask the judge or their counsel to intervene  
 D. Ask the defense counsel to stop their annoying conduct (1 mark)
29. In common law legal systems, which one of the following statements is the main objective of the defense counsel during cross-examination of an expert witness?  
 A. To ask questions that will support the defense  
 B. To obtain information about the expert witness's previous contradicting statements to question the witness's honesty and truthfulness  
 C. To impeach their knowledge  
 D. To impeach their credibility (1 mark)
30. Which one of the following evidences is an example of direct testimonial evidence?  
 A. A character witness  
 B. Expert testimony based on interpretation of the facts  
 C. A co-accused' testimony against the accused  
 D. Testimony that the defendant deposited seven million shillings into his account three days after the money was stolen from his employer (1 mark)
31. Which one of the following statements is **NOT** an example of impeachment based on the witness's credibility?  
 A. The expert witness made consistent statements  
 B. The expert is not well trained on the subject matter  
 C. The expert does not have advanced training on the subject matter  
 D. None of the above (1 mark)
32. Which one of the following statements is **NOT** accurate in regard to documentation of evidence in civil litigation in inquisitorial jurisdictions?  
 A. The party's attorneys to the litigation assists in documentation of the evidence  
 B. Evidentiary record is created by presiding judge  
 C. The parties to the litigation document their own evidence  
 D. Evidentiary record is created during the examination phase (1 mark)

33. Which one of the following statements is **ACCURATE** in regard to admissibility of relevant evidence in adversarial jurisdictions?
- A. Relevant evidence may be admissible if it is relevant to prove other related facts
  - B. Relevant evidence is admissible even if it is prejudicial
  - C. All relevant evidence is admissible to prove facts in issue
  - D. None of the above
- (1 mark)
34. Which one of the following statements is **ACCURATE** in regard to admissibility of evidence?
- A. Hearsay evidence is admissible under some circumstances
  - B. Documents are exhibits and therefore admissible
  - C. Hearsay evidence is not admissible under any circumstances
  - D. None of the above
- (1 mark)
35. Which one of the following statements is an objective of cross-examination counsel by seeking answer from the expert witness?
- A. Making the expert contradict himself
  - B. Making the expert a sounding board
  - C. Making the expert agree that his investigation was limited
  - D. False sense of security
- (1 mark)
36. Which one of the following statements is **ACCURATE** in relation to an expert witness opinion?
- A. An expert can testify to opinion of guilt or innocence
  - B. An expert can testify to opinions of another expert
  - C. An expert cannot testify on technical matters
  - D. An expert cannot testify to opinions of another expert
- (1 mark)
37. The following are requirements for a document to be admissible, **EXCEPT** \_\_\_\_\_.
- A. The document must be an exhibit
  - B. The document must be properly authenticated
  - C. The document must be certified
  - D. The document must be real evidence
- (1 mark)
38. Which one of the following statements is **ACCURATE** in regard to duty to preserve information relevant to a case in civil law jurisdiction?
- A. The duty arises after investigation
  - B. The duty arises before investigation
  - C. The duty arises during examination
  - D. None of the above
- (1 mark)
39. Which one of the following statements is **MOST** accurate in regard to disclosure of information in criminal proceedings in adversarial jurisdictions?
- A. The prosecution is entitled to limited disclosures
  - B. The prosecution is entitled to all information that will be used in court
  - C. Both the prosecution and defense are entitled to limited disclosures
  - D. The criminal defendant is entitled to limited disclosures
- (1 mark)
40. Which one of the following statements is **NOT** accurate in regard to waiver of privileges?
- A. Waiver of a legal professional privilege occurs when an attorney shares information with a consulting expert
  - B. Legal professional privileges can be extended to a third-party under some circumstances
  - C. Legal professional privileges can be extended to a third-party for legal support services
  - D. Waiver of a legal professional privilege cannot occur when an attorney shares information with a consulting expert
- (1 mark)
41. An expert appointed to express an expert opinion on the prosecution witness opinion is referred to as \_\_\_\_\_.
- A. Consulting expert
  - B. Expert witness
  - C. Court appointed expert
  - D. Eye witness
- (1 mark)

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42. Which one of the following statements is **NOT** accurate in regard to appointment of expert witnesses in civil law jurisdiction?
- A. In inquisitorial jurisdictions, parties to the litigation cannot appoint their own expert witnesses
  - B. In civil law jurisdictions, defense can appoint their own expert witness
  - C. In civil law jurisdictions, plaintiff can appoint their own expert witness
  - D. In civil law jurisdictions, parties to the litigation cannot appoint their own primary expert witnesses
- (1 mark)
43. Which one of the following statements is **ACCURATE** in regard to civil appellate courts in common legal systems?
- A. In most adversarial jurisdictions, a civil appellate court generally interviews additional fact witnesses and expert witnesses and collects new documentary evidence
  - B. In most common law jurisdictions, a civil appellate court can review issues of facts but cannot make a determination on issues of evidence
  - C. In most common law jurisdictions, a civil appellate court can order for a fresh trial and refer the case to the bench court
  - D. None of the above
- (1 mark)
44. Which one of the following evidences describes the type of evidence found in the suspect's bank statements alleged to be engaging in bribery?
- A. Documentary evidence
  - B. Real evidence
  - C. Exhibits evidence
  - D. Circumstantial evidence
- (1 mark)
45. Which one of the following types of questions is the defense counsel likely to use extensively on the prosecution expert witness.?
- A. Complex questions
  - B. Narrative questions
  - C. Leading questions
  - D. Open questions
- (1 mark)
46. Which one of the following statements describes the role of the parties' advocates in civil litigation in civil law jurisdiction?
- A. The advocates conduct the questioning of the witnesses
  - B. The defense counsel cross examines the prosecution witness
  - C. The advocates drive the discovery of evidence
  - D. None of the above
- (1 mark)
47. Which one of the following types of questions is defense counsel unlikely to use during cross examination?
- A. Narrative questions
  - B. Closed questions
  - C. Leading questions
  - D. None of the above
- (1 mark)
48. Which one of the following items should be included in the trial record of civil litigation in adversarial jurisdictions?
- A. All documents related to the facts in issue
  - B. A word-for-word transcript of all oral testimony
  - C. Summary of the evidence
  - D. All information provided by witnesses
- (1 mark)
49. Which one of the following statements is **NOT** accurate in regard to civil trial in Kenya's jurisdiction?
- A. The plaintiff counsel conducts examination in-chief of their witness
  - B. The defendant counsel can cross examine the plaintiff witness
  - C. The prosecution counsel can re-examine the plaintiff witness on matters raised during cross examination
  - D. The plaintiff counsel can re-examine the plaintiff witness on matters raised during cross examination
- (1 mark)

50. Which one of the following statements is **NOT** accurate in regard to the rules of admissibility of evidence in adversarial jurisdiction?
- A. The purpose of authentication requirement in most common law systems is to ensure that a document is relevant to the issue
  - B. The reason for not admitting hearsay evidence in common law jurisdictions is because hearsay evidence is not reliable
  - C. Character evidence is inadmissible as evidence because it not relevant to the facts in issue
  - D. None of the above (1 mark)
51. Which one of the following statements in regard to burden of proof in civil trials in both civil and common law jurisdictions is **ACCURATE**?
- A. In adversarial jurisdictions, the burden of proof is with the defendant
  - B. In the adversarial jurisdictions, the burden of proof is with the prosecution
  - C. In inquisitorial jurisdictions, the parties to the litigation have the burden of proof
  - D. In civil law jurisdictions the burden of proof is with defendant (1 mark)
52. Which one of the following statements is **MOST** accurate in regard to criminal defendants testifying in a court of law?
- A. In civil law jurisdictions, criminal defendants are required to provide testimony if so directed by the court
  - B. In adversarial jurisdictions, criminal defendants are required to provide testimony if so directed by the court
  - C. In both adversarial and inquisitorial jurisdictions, criminal defendants are required to provide testimony if so directed by the court
  - D. In civil law jurisdictions, criminal defendants have a right to remain silent (1 mark)
53. Which one of the following statements is **NOT** accurate in regard to civil appellate court in common law jurisdiction?
- A. The appellate court can determine only issues of law
  - B. The winning party in a civil trial can also appeal against judgement
  - C. The appellate court cannot determine issues of evidence
  - D. In a civil trial in adversarial jurisdictions, only the losing party can appeal (1 mark)
54. Which one of the following statements is **NOT** accurate in regard to evidence in common law jurisdictions?
- A. Adversarial jurisdictions favour testimonial evidence
  - B. Adversarial jurisdictions favour documentary evidence because documents are exhibits
  - C. Adversarial jurisdictions cannot admit character evidence for conviction purposes
  - D. Adversarial jurisdictions cannot admit evidence of previous crimes as evidence (1 mark)
55. Which one of the following statements is **ACCURATE** under the Evidence Act?
- A. Oral direct evidence is a type of circumstantial evidence
  - B. Oral direct evidence is a form of testimonial evidence
  - C. Oral direct evidence is a form of real evidence
  - D. Oral direct evidence is a form of expert testimony (1 mark)
56. Which one of the following statements is **NOT** accurate in regard to defense counsel general rule?
- A. It is a general rule for the opposing counsel to cross-examine an expert witness by asking questions that will support the defense
  - B. It is a general rule for the opposing counsel to cross-examine an expert witness by asking leading questions where the answer can be yes or no
  - C. It is a general rule for opposing counsel to cross-examine an expert witness by asking leading questions where the answer can only be yes
  - D. None of the above (1 mark)
57. Which one of the following statements is **MOST** accurate in regard to the rules of evidence in adversarial jurisdictions?
- A. Relevant and reliable evidence is admissible during court proceedings
  - B. Relevant evidence to prove other facts in issue will be admissible during court proceedings
  - C. Relevant and reliable evidence can be inadmissible in trial proceedings if the evidence is not admissible
  - D. None of the above (1 mark)

58. Which one of the following statements is **ACCURATE** in regard to the standard of proof in a fraudulent disbursement case in Kenya's jurisdictions?
- A. The evidence must withstand the test of reasonable doubt
  - B. Evidence presented must be on balance of probability
  - C. The prosecution evidence must have more weight than that of the defense
  - D. None of the above
- (1 mark)
59. Relevance and admissibility are basic principles of evidence under the Kenya evidence Act. With reference to the above statement, which one of the following evidences is **NOT** admissible?
- A. Real evidence that is relevant to prove the alleged facts
  - B. Exhibits that are relevant to prove the facts in issue
  - C. Exhibits that are relevant to prove other facts in issue
  - D. Oral direct evidence by a co-accused defendant
- (1 mark)
60. Which one of the following situations would **NOT** result to waiver of a client's legal professional privilege over confidential communication with his attorney?
- A. The client's counsel shares privileged communication with a third party for purposes of legal support
  - B. The client intentionally shares privileged communication with an unrelated third party who has no legitimate interest in the matter
  - C. The client accidentally forwards an email with privileged information to unrelated third parties who have no need to know the information
  - D. None of the above
- (1 mark)
61. Which one of the following statements is **NOT** accurate in regard to expert witnesses in civil law jurisdictions?
- A. In inquisitorial jurisdiction, the court appoints the primary expert witness
  - B. In inquisitorial jurisdiction, the parties to the litigation can appoint their own expert witnesses
  - C. In inquisitorial jurisdiction, the party's expert witnesses cannot question the court appointed expert witness
  - D. In inquisitorial jurisdiction, the party's expert witnesses cannot be cross examined
- (1 mark)
62. Which one of the following statements is **ACCURATE** in regard to the rules of evidence under the Kenya Evidence Act (CAP 80)?
- A. The evidence act shall apply to all judicial proceedings in or before any court
  - B. The evidence act shall also apply to the Kadhi's court
  - C. The evidence act shall also apply to arbitration and tribunals hearings
  - D. The evidence act shall also apply to mediation
- (1 mark)
63. Which one of the following statements is **ACCURATE** in regard to confessions under the Kenya evidence Act?
- A. Confession by a criminal defendant is automatically admissible as evidence
  - B. Confession by a suspect made before an investigative officer is admissible
  - C. Confession by a co-accused implicating himself is not admissible as evidence against the criminal defendant
  - D. Confession by a criminal defendant is not automatically admissible as evidence
- (1 mark)
64. Which one of the following statements is **ACCURATE** in regard to evidence in a bribery case?
- A. Most of the bribery cases are proved with real evidence
  - B. A person who has personal knowledge of the facts in issue and is not a beneficiary of the offence can be a good witness to give oral direct evidence in a bribery case
  - C. Most of the corruption cases are proved through expert testimony opinion
  - D. None of the above
- (1 mark)
65. Which one of the following types of questions is prosecution counsel **NOT** allowed to ask an expert witness during examination in chief?
- A. Open questions
  - B. Narrative questions
  - C. Closed questions
  - D. Leading questions
- (1 mark)

66. Which one of the following statements is **NOT** accurate in regard to examination in chief and re-examination?
- A. Examination in chief court process is questioning that aims to expose facts of the case with the court
  - B. Re-examination court process is questioning that aims to expose facts of the case with the court after cross examination
  - C. Re-examination court process is non-adversarial questioning that is conducted by prosecution counsel
  - D. The prosecution counsel must conduct re-examination of the witness after the cross examination
- (1 mark)
67. Which one of the following statements is **NOT** accurate in regard to cross examinations questions?
- A. Unlike the prosecution counsel, the defense counsel can ask leading questions
  - B. Defense counsel can ask leading questions after re-examination by the prosecution counsel
  - C. Defense counsel cannot cross examine after re-examination
  - D. Defense counsel can ask closed questions during cross examination
- (1 mark)
68. Which one of the following statements is **ACCURATE** in regard to examination of the expert witness by the prosecution during court proceeding?
- A. During examination in chief, the prosecution is not allowed to ask the prosecution witness narrative questions
  - B. During examination in chief, the prosecution is not allowed to ask the prosecution witness closed questions
  - C. During examination in chief, the expert witness should establish the facts of the case by responding to all the open ended and narrative questions
  - D. During the examination in chief, the expert witness can avoid responding to questions that might support the defense case
- (1 mark)
69. Which one of the following evidences is a hearsay evidence that can be admissible in a court of law?
- A. Statements against interest
  - B. An affidavit
  - C. Financial statements
  - D. All documents related to the facts in issue
- (1 mark)
70. The following are hearsay documents, **EXCEPT**\_\_\_\_\_.
- A. Financial statements
  - B. Reconciliation statement
  - C. Bank statements
  - D. None of the above
- (1 mark)
71. The following are rules related to reliability of evidence, **EXCEPT**\_\_\_\_\_.
- A. Rule against testimony opinion
  - B. Rule against character evidence
  - C. Rule against real evidence
  - D. Rule against hearsay evidence
- (1 mark)
72. Which one of the following rules is related to admissibility of documentary evidence in the chain of custody?
- A. The rule of primary evidence
  - B. The rule of secondary evidence
  - C. The best rule of evidence
  - D. The rule of authentication
- (1 mark)
73. Which one of the following statements is **NOT** accurate in regard to admissibility of electronic evidence under the Kenya Evidence Act?
- A. In any legal proceedings, electronic messages and digital materials will be admissible as evidence
  - B. Electronic evidence is required to be authenticated to be admissible as evidence
  - C. Electronic evidence does not require to be authenticated to be admissible as evidence
  - D. None of the above
- (1 mark)

74. Which one of the following statements is **NOT** accurate in regard to admissibility of character evidence in fraud or corruption criminal proceedings in Kenya?
- Character witness may testify to the defendant's fraudulent and corrupt character as evidence to prove the facts in issue
  - In criminal proceedings, the defendant character witness cannot testify to the defendant's good character based on specifics
  - In criminal proceedings, character witness cannot testify to the defendant's fraudulent and corrupt character as evidence to prove the facts in issue
  - In criminal proceedings, the defendant character witness can testify to the defendant's general good character (1 mark)
75. Which one of the following is **MOST** accurate in regard to questioning by legal counsels of the parties in Kenya during a fraud court proceeding?
- The prosecution counsel conducts the questioning of their own witness
  - The defense counsel conducts the cross examination of their own witness
  - The defense counsel conducts questioning of the prosecution witness
  - None of the above (1 mark)
76. Which one of the following statements is **NOT** accurate in regard to a fraud trial in the common law jurisdictions?
- The prosecution must serve the defendant with evidence that tends to explain the defendant guilt away and also evidence incriminating the defendant
  - The main objective of the prosecution in a fraud criminal judicial proceedings is not to ensure that the criminal defendant is convicted
  - The main objective of the prosecution in a fraud criminal court proceeding is to ensure justice
  - In a criminal fraud trial, the defendant must provide evidence to show their innocence (1 mark)
77. Which one of the following statements is **NOT** accurate in regard to admissibility of documentary evidence?
- Any document associated to the facts in issue is an exhibit to prove the facts in issue
  - Financial statements are hearsay evidence and cannot be introduced as an exhibit to prove misrepresentation of the financial performance of the organisation
  - Bank statements of a suspect accused of corruption that show that the suspect deposited substantial amounts of money in his account just around the same time of the alleged corruption is not real evidence
  - An eye witness testimony statement is not a form of real evidence (1 mark)
78. Which one of the following statements is **ACCURATE** in regard to confession evidence?
- Confession is real evidence
  - Confession is circumstantial evidence
  - Confession is the same as guilty plea
  - None of the above (1 mark)
79. Which one of the following statements is **ACCURATE** in regard to questioning of an expert witness in courts Kenya?
- The questioning of an expert witness is conducted by the defense counsel only
  - The questioning of an expert witness is conducted during examination in chief and cross examination
  - The questioning of an expert witness is conducted only during cross examination by the defense counsel
  - The questioning of an expert witness is conducted only during examination in chief by the prosecution counsel (1 mark)
80. Which one of the following statements is **MOST** accurate in regard to authentication?
- Evidence must be properly authenticated to be admissible in a court of law
  - Testimonial evidence must also be properly authenticated to be admissible in a court of law
  - Real evidence needs to be properly authenticated to be admissible in a court of law
  - Both demonstrative and real evidence are physical items and therefore must be properly authenticated to be admissible in a court of law (1 mark)

81. Which one of the following statements is **MOST ACCURATE** in regard to questioning of experts in inquisitorial jurisdictions in fraud civil litigation?
- A. In most inquisitorial jurisdictions, the judge conducts the questioning of the defendant
  - B. In most inquisitorial jurisdictions, the defendant's counsel can cross examine the court's primary expert witness
  - C. In most inquisitorial jurisdictions, the defendant's counsel cannot question the court's primary expert witness
  - D. In most inquisitorial jurisdictions, the trial judge cannot question the court's primary expert (1 mark)
82. Which one of the following statements is **ACCURATE** in regard to an eye witness testimony in Kenya's jurisdiction?
- A. The eye witness testimony must be oral direct evidence
  - B. The eye witness testimony must be based on technical knowledge of the facts being litigated
  - C. The eye witness testimony can be based on information provided by another person who has personal knowledge of the facts in issue
  - D. The eye witness testimony must be written direct evidence (1 mark)
83. Which one of the following statements is **NOT** accurate in regard to disclosure of court witnesses statements in adversarial jurisdictions?
- A. The prosecution expert witness statement must be disclosed to the defense
  - B. The consulting expert report is protected by professional legal privileges
  - C. The expert witness statement is not protected by professional legal privileges
  - D. The witness statement must be disclosed to the defense (1 mark)
84. Which one of the following is a phase of a criminal trial in inquisitorial jurisdiction?
- A. Cross examination
  - B. The trial phase
  - C. Oral written examination
  - D. Direct examination (1 mark)
85. Which one of the following statements is **ACCURATE** in regard to expert witness and the trial process in Kenya's jurisdiction?
- A. The cross examination trial process is conducted by the parties to the litigation
  - B. The cross-examination can only be conducted by the defense counsel
  - C. The examination-in chief of the trial process is conducted by the parties to the litigation
  - D. None of the above (1 mark)
86. Which one of the following statements is **ACCURATE** in regard to re-examination in a judicial process?
- A. Defense counsel can re-examine the expert witness after examination in chief
  - B. The prosecution will consider whether conducting re-examination would benefit their side of the case or weaken the case during cross examination
  - C. Defense counsel cannot cross examine the expert witness after re-examination
  - D. The prosecution counsel cannot re-examine the expert witness after cross examination (1 mark)
87. Which one of the following parties may not have access to the evidence before trial in criminal proceedings in common law jurisdictions?
- A. The parties to the criminal proceedings
  - B. The prosecution only
  - C. The court
  - D. The defense (1 mark)
88. Which one of the following statements is **NOT** accurate in regard to court witnesses?
- A. A character witness in court is not a court witness
  - B. A court appointed expert is a court witness
  - C. An expert witness is a court witness
  - D. An eye witness is a court witness (1 mark)

89. Which one of the following statements is **NOT** accurate in regard to expert testimony in Kenya?
- An expert witness opinion is oral direct evidence
  - Expert testimony is an expert opinion based on specialised skills and knowledge
  - Expert testimony is an expert opinion based on personal observation and findings during investigations
  - Expert testimonial is not oral direct evidence (1 mark)
90. Which one of the following questions must **NOT** be asked to determine whether a witness is an expert on the matters being litigated?
- Does the expert have technical skills in the subject matter being litigated?
  - Does the expert have specialised training or professional qualification on the subject matter being litigated?
  - Does the expert have advanced education on the subject matter being litigated?
  - Is the expert witness suitable to testify in court of law as a witness? (1 mark)
91. Which one of the following statements **BEST** describes the standard of proof for civil suits in Kenya's jurisdictions?
- Beyond reasonable doubts
  - More likely than not
  - Preponderance of evidence
  - Balance of probability (1 mark)
92. Which one of the following types of direct evidences can the prosecution produce to prove bribery in adversarial jurisdictions?
- The defendant's bank statements showing unexplained deposit
  - A witness statement
  - A guilty plea
  - Unexplained assets owned by the criminal defendant (1 mark)
93. Which one of the following parties may serve as a fact finder in serious criminal trials in inquisitorial jurisdictions?
- A panel of juries
  - A panel of judges
  - A panel of lay and legal judges
  - None of the above (1 mark)
94. Which one of the following statements is **NOT** accurate in regard to relevant evidence?
- For evidence to be admissible, it must be relevant to the alleged offence
  - For evidence to be admissible, it must be inculpatory
  - Relevant evidence is either inculpatory or exculpatory
  - None of the above (1 mark)
95. Which one of the following statements is **ACCURATE** in regard to an expert witness in a fraud criminal proceeding in Kenya's jurisdiction?
- The court can appoint an expert witnesses to express an opinion on the prosecution expert witness opinion
  - The court cannot appoint an expert witnesses in adversarial jurisdictions
  - The court can appoint an expert witnesses to provide expert opinion
  - None of the above (1 mark)
96. Which one of the following evidences is an example of circumstantial evidence?
- A fraudulent invoice
  - A forged cheque
  - Unexplained assets owned by the criminal defendant
  - None of the above (1 mark)
97. Which one of the following is an exhibit in a bribery case?
- A witness testifying that they paid a bribe to the government official
  - The suspects' bank statements
  - Unexplained assets acquired during the alleged time of bribery
  - None of the above (1 mark)

98. Bob, a criminal fraud defendant, enters into a bargaining plea with the prosecution. Which one of the following statements is **ACCURATE** in regard to the bargaining plea?
- A. Bob's guilty plea can be entered as direct evidence
  - B. Bob's guilty plea can be entered as oral direct evidence
  - C. Bob's guilty plea can be entered as confession evidence
  - D. Bob's guilty plea is not evidence
- (1 mark)
99. Which one of the following statements is **NOT** accurate in regard to testimonial evidence in Kenya?
- A. Testimonial evidence includes oral direct evidence and expert witness opinion
  - B. Oral direct testimony can only be provided by an eye witness
  - C. Oral direct testimony can be given by an expert witness
  - D. None of the above
- (1 mark)
100. Which one of the following statements **BEST** describes the purpose of the defense counsel asking, "is it true, do you agree with me"?
- A. To confirm facts presented by an expert witness
  - B. To seek answers from an expert witness
  - C. To make an expert witness contradict himself
  - D. To make an expert witness agree with opposing side
- (1 mark)

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**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 24 April 2024. Afternoon Paper.**

**Time Allowed: 3 hours.**

**Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. This paper is made up of one hundred (100) Multiple Choice Questions. Each question is allocated one (1) mark.**

1. Evidence must be properly authenticated to be admissible in a court of law in common law jurisdictions. Which one of the following is **NOT** a method of authenticating evidence?
  - A. Maintain chain of custody
  - B. A person with personal knowledge of the document, produces the document in a court of law
  - C. Certify the document as a true copy of the original copy
  - D. None of the above(1 mark)
2. Which one of the following statements is **ACCURATE** in regard to expert testimony in adversarial judicial process in a corruption criminal trial?
  - A. An expert witness may express an opinion regarding the criminal defendant's criminal liability
  - B. An expert witness may express an opinion regarding the criminal defendant's involvement in the offence
  - C. An expert witness must express an opinion regarding the criminal defendant's intent to commit the offence
  - D. None of the above(1 mark)
3. In the adversarial jurisdictions, which of the following is generally **NOT** an objective of the defence counsel during cross-examination of an expert witness?
  - A. To ask the expert questions that he already has an answer
  - B. To obtain information about the expert witness's previous contradicting statements to question the witness's honesty and truthfulness
  - C. To ask the expert questions, that he does not have an answer
  - D. None of the above(1 mark)
4. Which one of the following statements is an example of testimonial direct oral evidence in Kenya?
  - A. Testimony of an eye witness
  - B. Expert testimony based on interpretation of the facts
  - C. Testimony that the defendant deposited seven million shillings into his account, three days after the money was stolen from his employer
  - D. All the above(1 mark)
5. In adversarial processes, an attorney may impeach an opposing party's witness by attacking either their knowledge of the subject in issue or their credibility. Which one of the following statements is **NOT** an example of impeachment based on the witness's knowledge?
  - A. The expert lacks technical expertise in the subject matter
  - B. The expert is not well trained in the subject matter
  - C. The expert has undisclosed conflict of interest
  - D. None of the above(1 mark)

6. In civil trial in inquisitorial jurisdictions, which one of the following is **NOT** accurate in regard to evidentiary record?
- A. Evidentiary record is created by the court
  - B. Evidentiary record is created during the examination phase
  - C. Evidentiary record is discovered by the court during trial
  - D. None of the above
- (1 mark)
7. Which one of the following statements is **NOT** accurate in regard to admissibility of relevant evidence in adversarial jurisdictions?
- A. Relevant evidence may be admissible, if it is relevant to the facts being litigated
  - B. Relevant evidence is not admissible, if it is prejudicial
  - C. Relevant evidence may be admissible, if it can prove that the criminal defendant committed the offence
  - D. Relevant evidence may be admissible, if it can prove that the criminal defendant is liable
- (1 mark)
8. Which one of the following statements is **NOT** accurate in regard to hearsay evidence?
- A. Hearsay evidence may be admissible if it is relevant to the facts in issue
  - B. Documents are generally hearsay
  - C. Hearsay evidence is admissible under hearsay evidence exemption rules
  - D. Hearsay evidence is generally not admissible
- (1 mark)
9. In cross-examination of a prosecution expert witness, which of the following is an objective of cross-examination counsel when he asks questions as if he/she, is seeking an answer from the expert witness?
- A. Making the expert contradict himself
  - B. Making the expert a sounding board by continuously agreeing with the defence counsel's position
  - C. Making the expert have false sense of security
  - D. None of the above
- (1 mark)
10. Which one of the following statements is **NOT** accurate in regard to anti-fraud professionals' code of ethics, like the ACFE Code of Professional Ethics?
- A. The expert can testify to opinion of guilt if the expert has obtained sufficient evidence to prove the defendant committed the offence
  - B. The expert can testify to opinions of the opposing expert witness testimony
  - C. The expert can testify on technical matters such as violation of accounting standards
  - D. All the above
- (1 mark)
11. Which one of the following conditions is **NOT** a requirement for a document to be admitted into evidence in adversarial jurisdictions?
- A. The document must be real evidence
  - B. The document must be properly authenticated
  - C. The document must be relevant to the facts in issue
  - D. None of the above
- (1 mark)
12. Which one of the following statements is **ACCURATE** in regard to duty to preserve information relevant to a case in civil law jurisdiction?
- A. The duty arises after pre-trial
  - B. The duty arises before pre-trial
  - C. The duty arises during pre-trial
  - D. The duty commences when the court advises
- (1 mark)
13. Which one of the following statements is **NOT** accurate in regard to prosecution's right to obtain disclosure of information from the defendants in criminal proceedings in adversarial jurisdictions?
- A. The prosecution is entitled to limited disclosures
  - B. The prosecution and defence is entitled to all information that will be used in court
  - C. Both the prosecution and defence are entitled to limited disclosures
  - D. None of the above
- (1 mark)

14. Which one of the following statements is **NOT** accurate in regard to waiver of privileges?
- A. Waiver of a legal professional privilege occurs when a client shares privileged information with a third party retained to offer professional advice
  - B. Legal professional privileges can be extended to a third-party for purposes of providing legal support
  - C. Legal professional privileges cannot be waived because of sharing information with a third-party for purposes obtaining professional services under the direction of an advocate
  - D. None of the above
- (1 mark)
15. Karen is retained by a court to provide an expert opinion involving specialised knowledge in accounting. Which one of the following jurisdictions is Karen giving expert testimony?
- A. Adversarial jurisdiction
  - B. Civil Justice system
  - C. Inquisitorial jurisdiction
  - D. Common law jurisdiction
- (1 mark)
16. Which one of the following terminologies **BEST** describes the pre-trial civil discovery used in most adversarial jurisdictions?
- A. Summary judgement
  - B. Pre-trial civil discovery
  - C. Direct examination
  - D. None of the above
- (1 mark)
17. Which one of the following statements is **NOT** accurate in regard to appointment of expert witnesses in the civil law jurisdiction?
- A. In inquisitorial jurisdictions, the parties to the litigation cannot appoint their expert witness because the experts are appointed by the court
  - B. In the civil law jurisdictions, the defence can appoint their own expert witnesses to question the court appointed expert
  - C. In the civil law jurisdictions, the parties to the litigation can appoint their expert witnesses
  - D. None of the above
- (1 mark)
18. Which one of the following statements is **ACCURATE** in relation to appellate courts in common legal systems?
- A. In most adversarial jurisdictions, a civil appellate court generally interviews additional fact witnesses and expert witnesses and collects new documentary evidence
  - B. In most common law jurisdictions, a civil appellate court, can review issues of facts and make factual determination
  - C. In most common law jurisdictions, a civil appellate court can order for a fresh trial and refer the case to the bench court
  - D. None of the above
- (1 mark)
19. Which one of the following terms **BEST** refers to the type of evidence found in the suspect's bank statements of a suspect alleged to be engaging in receiving bribes?
- A. Direct evidence
  - B. Real evidence
  - C. Circumstantial evidence
  - D. Exhibit
- (1 mark)
20. Cross examination is a trial process that is usually conducted in an adverse manner. Which of the following types of questions is the defence counsel likely to use extensively when questioning the prosecution expert witness.?
- A. Complex questions
  - B. Narrative questions
  - C. Leading questions
  - D. All the above
- (1 mark)
21. In inquisitorial jurisdictions, which of the following **BEST** describes the major role of advocates of the parties to the litigation in civil litigation?
- A. The advocates play an advisory role to the presiding judge
  - B. The defence counsel cross examines the court witness
  - C. The advocates drive the discovery of evidence
  - D. None of the above
- (1 mark)

22. Which one of the following is a type of question that a defence counsel is **NOT** likely to use during cross examination?
- A. Leading questions
  - B. Open ended questions
  - C. Closed questions
  - D. Complex questions
- (1 mark)
23. Which one of the following statements is **NOT** accurate in regard to an expert witness testimony?
- A. The Certified Forensic Fraud Examiner (CFFE) credential demonstrates expertise in fraud prevention and investigation, however a CFFE does not automatically qualify to give testimony in every fraud-related case
  - B. To testify in court as an expert witness, the witness must have formal training and experience in the facts in issue
  - C. To testify in court as an expert witness, the witness must have personal knowledge of the facts in issue
  - D. To testify in court as an expert witness, the witness is not required have personal knowledge of the facts in issue
- (1 mark)
24. Which one of the following items should basically be included in the trial record of a civil trial in adversarial jurisdictions?
- A. All documents related to the facts in issue
  - B. A word-for-word transcript of all witness's interviews
  - C. Eye witnesses statements
  - D. None of the above
- (1 mark)
25. Which one of the following statements is **ACCURATE** in regard to testimonial evidence in a court of law in Kenya?
- A. A fraud investigator can provide oral direct evidence based on evidence collected during investigations
  - B. An auditor who detects a fraudulent scheme in the course of a routine audit, can be called to testify in a court of law to offer oral direct evidence
  - C. A witness called in court to provide a document cannot offer oral direct evidence
  - D. None of the above
- (1 mark)
26. Which one of the following statements is **NOT** accurate in regard to admissibility of an admission as evidence under the evidence Act Cap 80 in relation to a fraud case?
- A. If a defendant admits in civil proceedings the facts need not be proved
  - B. If a criminal defendant made a confession incriminating himself, such confessions are generally not admissible
  - C. Admissions by a criminal defendant can be admissible if they are made before a judge, magistrate or a police officer in the rank of a chief inspector
  - D. Admission by a defendant in civil proceedings is generally not admissible
- (1 mark)
27. Which one of the following statements is **NOT** accurate in regard to witnesses under the Kenya Evidence Act?
- A. A witness called to produce a document is not a court witness
  - B. A witness called to produce a document is not a court witness therefore cannot be cross examined
  - C. A person called to produce a document cannot be cross examined, but can be questioned by the prosecution counsel
  - D. None of the above
- (1 mark)
28. Which one of the following statements is **NOT** accurate in regard to exhibits?
- A. All documents related to facts in issue are not exhibits
  - B. Exhibits are tangible items and forms of real evidence
  - C. Demonstrative evidence is a tangible evidence so it is also an exhibit
  - D. Demonstrative evidence is a tangible item but it is not an exhibit
- (1 mark)
29. In a common law jurisdiction like Kenya, which one of the following statements is **NOT** a reason that counsel can use to impeach a lay/eye witness opposing party's witness.
- A. The lay witness does not have personal knowledge of the facts in issue
  - B. The lay witness has a conflict of interest
  - C. The lay witness does not have technical skills and knowledge on the facts in issue
  - D. The witness is dishonest
- (1 mark)

30. One of the functions of a fraud examination or forensic audit to testify as an expert witness in court. Which one of the following statements is **NOT** accurate in regard to how a witness should conduct himself in a court of law while giving testimony?
- A. A witness should refrain from arguing or confronting the defence counsel
  - B. The witnesses should ask counsel to rephrase a leading question
  - C. The witnesses should refuse to answer questions, where the appropriate answer would support the opposing side
  - D. The witness should not be seen to evade answering questions (1 mark)
31. Which one of the following statements is **NOT** accurate in regard to communication between an attorney and his client?
- A. The client and advocate should keep their communications confidential
  - B. The purpose of the communications was to seek legal professional services
  - C. The advocate and client communication cannot be communicated to a third party
  - D. The advocate and client communication can be communicated to a third party for purposes of seeking legal support (1 mark)
32. Which one of the following is **NOT** accurate in regard to the trial phases in a civil trial in adversarial jurisdictions?
- A. The pre conference phase
  - B. The trial phase
  - C. Sentencing
  - D. None of the above (1 mark)
33. In a criminal trial involving allegations of an organised financial crime, the prosecution introduces a document to illustrate relationship of transactions with several degrees of separation. Which one of the following terminologies refers that form of evidence?
- A. Real evidence
  - B. Exhibit
  - C. Demonstrative evidence
  - D. Circumstantial evidence (1 mark)
34. During cross-examination, counsel can use several techniques. Which one of the following terms **BEST** describes the advocate's technique for making the witness constantly agree with the defendant's counsel?
- A. Contradiction
  - B. Myopic vision
  - C. Sounding board
  - D. None of the above (1 mark)
35. Which one of the following statements is **NOT** accurate in regard to expert witness in adversarial jurisdictions?
- A. An opposing expert witness cannot testify about the opinions of another expert
  - B. An expert witness can be appointed by the court, to express an opinion on the expert witness opinion, called by the parties to the litigation opinion
  - C. Witnesses are appointed by the parties to the litigation
  - D. None of the above (1 mark)
36. Which one of the following statements is **ACCURATE** in regard to juries in legal trial process in the adversarial jurisdictions in civil and criminal trials?
- A. In most common law jurisdictions, the jury verdict for criminal cases must be unanimous
  - B. In most common law jurisdictions, the jury verdict for serious civil cases must be unanimous
  - C. In most common law jurisdictions, the jury verdict must be unanimous, only for serious criminal cases
  - D. In most common law jurisdictions, the jury verdict for both civil cases and criminal must be unanimous (1 mark)
37. A forensic auditor in his report stated that, he found that fifty million shillings have been misappropriated. To support the same, he said that, he found that the day the money was withdrawn from the account, a few days later, the suspect bought a very expensive vehicle that he could not explain the legitimate sources of the funds that he used to acquire the vehicle. Which one of the following phrases **BEST** refers to the evidence stated in the forensic audit report?
- A. Exhibit-motor vehicle
  - B. Circumstantial evidence
  - C. Direct evidence
  - D. Real evidence (1 mark)

38. Which one of the following statements is **NOT** accurate in regard to civil litigation in Kenya?
- A. The plaintiff counsel conducts examination in-chief of their witness
  - B. The defendant counsel cross examines the plaintiff witness
  - C. The prosecution counsel can re-examine the plaintiff witness on matters raised during cross examination
  - D. None of the above (1 mark)
39. Which one of the following statements is **NOT** accurate in regard to the rules of admissibility of evidence in adversarial jurisdiction?
- A. The purpose of authentication requirement in most common law systems is to ensure that a document is not fictitious
  - B. The reason for not admitting hearsay evidence, in common law jurisdictions is because hearsay evidence is not reliable
  - C. Character evidence is inadmissible as evidence because it not relevant to the facts in issue
  - D. None of the above (1 mark)
40. Which one of the following terms refers to the type of examination conducted by counsels of the parties to the litigation during pre-trial?
- A. Cross-examination
  - B. Re-examination
  - C. Oral/written testimony
  - D. None of the above (1 mark)
41. Which one of the following statements, in regard to burden of proof in civil trial is **ACCURATE**?
- A. In adversarial jurisdictions the burden of proof is with the defendant
  - B. In the adversarial jurisdictions, the burden of proof is with the prosecution
  - C. In inquisitorial jurisdictions the parties to the litigation have the burden of proof
  - D. None of the above (1 mark)
42. Which one of the following statements is **NOT** accurate in regard to criminal defendant's testimony in both the inquisitorial and adversarial jurisdictions?
- A. In civil law jurisdictions, criminal defendants are required to provide testimony, if so directed by the court
  - B. In adversarial jurisdictions, criminal defendants are required to provide testimony, if so directed by the court
  - C. In adversarial judicial processes, criminal defendants have a right to remain silent
  - D. In civil law jurisdictions, criminal defendants do not have a right to remain silent (1 mark)
43. Which one of the following statements is **NOT** accurate in regard to civil trial court of appeal in the adversarial jurisdiction?
- A. The appellate court can determine only issues of law
  - B. The winning party in a civil trial can also appeal against the judgement
  - C. The appellate court cannot determine issues of evidence
  - D. In a civil trial, in adversarial jurisdictions, it is only the losing party that can appeal against liability (1 mark)
44. Which one of the following statements is **ACCURATE** in regard to testimonial and documentary evidence in the adversarial jurisdictions?
- A. Adversarial jurisdictions favour documentary evidence over testimonial evidence
  - B. Adversarial jurisdiction favour documentary evidence because all documents are exhibits and give more weight to the evidence
  - C. Adversarial jurisdiction cannot admit character evidence for conviction purposes but can apply character evidence for sentencing
  - D. None of the above (1 mark)
45. Under the Kenya Evidence Act, which one of the following statements is **ACCURATE**?
- A. Oral direct evidence is a form of real evidence provided by a witness with firsthand information of the facts in issue
  - B. Oral direct evidence is a form of direct evidence provided by a witness with firsthand information of the facts in issue
  - C. Oral direct evidence is a form of circumstantial evidence provided by a witness with firsthand information of the facts in issue
  - D. Oral direct evidence is a form of exhibit provided by a witness with firsthand information of the facts in issue (1 mark)

46. Which one of the following statements is **NOT** accurate in regard to cross-examination?
- A. During cross-examination in adversarial jurisdictions, it is a general rule for the opposing counsel to cross-examine an expert witness by asking questions that will support the defence
  - B. During cross-examinations in adversarial jurisdictions, it is a general rule for opposing counsel to cross-examine an expert witness by asking leading questions where the answer can be yes or no
  - C. During cross-examinations in adversarial jurisdictions, it is a general rule for opposing counsel to cross-examine an expert witness by asking leading questions where the answer can only be yes
  - D. None of the above (1 mark)
47. Which one of the following statements in regard to admissibility of evidence in fraud criminal trials is **NOT** accurate?
- A. Physical evidence that is relevant to the facts in issue must be properly authenticated as a requirement for admission to evidence
  - B. Adversarial jurisdictions tend to have more stringent requirements for admissibility of evidence in criminal trials than civil trials
  - C. The objective of restrictions on admissibility of evidence, is to ensure that both defendant and prosecution get fair trial
  - D. The objective of restrictions on admissibility of evidence, is to ensure that the defendant gets a fair trial (1 mark)
48. Which one of the following statements in regard to admissibility of evidence is **ACCURATE**?
- A. Evidence that is relevant and reliable, is always admissible in trial proceedings
  - B. In adversarial jurisdictions, relevant evidence to prove other facts in issue will be admissible to prove facts in issue in a trial proceeding
  - C. Evidence that is relevant and reliable can be inadmissible in trial proceedings, if the evidence is not relevant to the facts in issue
  - D. None of the above (1 mark)
49. Which one of the following statements is **ACCURATE** in regard to the standard of proof in a fraud or corruption trial in Kenya's jurisdiction?
- A. The evidence must pass the test of reasonable doubts that might be presented by the defence
  - B. Evidence presented must be on balance of probability
  - C. The prosecution evidence must have more weight than that of the defence
  - D. None of the above (1 mark)
50. In the adversarial jurisdictions, relevance and admissibility are basic principles of evidence. Which one of the following evidences is **NOT** admissible?
- A. Real evidence that is relevant to prove other facts, associated with the facts in issue
  - B. Exhibits that are relevant to the facts in issue
  - C. Direct oral evidence by a witness
  - D. None of the above (1 mark)
51. Which one of the following scenarios would **NOT** result to waiver of a client's legal professional privilege over confidential communication with his attorney?
- A. The client's counsel shares privileged communication with a consulting expert
  - B. The client intentionally shares privileged communication with an unrelated third party who has no legitimate interest in the matter
  - C. The client accidentally forwards an email with privileged information to unrelated third parties who have no need to know the information.
  - D. All of the above (1 mark)
52. Which one of the following statements is **NOT** accurate in regard to expert witnesses in inquisitorial jurisdictions?
- A. In inquisitorial jurisdiction the court appoints the primary expert witness
  - B. In inquisitorial jurisdiction the parties to the litigation can appoint their own expert witnesses
  - C. In inquisitorial jurisdiction the party's expert witnesses cannot question the court appointed expert witness
  - D. In inquisitorial jurisdiction the party's expert witnesses cannot cross examine the court appointed expert witness (1 mark)

53. Vicky is a suspect in an ongoing investigation in civil law jurisdiction, that will likely end up in civil litigation. Vicky unknowingly shredded the original documents that were relevant to the facts in issue. Which one of the following statements is **NOT** accurate?
- Vicky violated her duty to preserve relevant documents because litigation was reasonably anticipated
  - Vicky did not violate her duty to preserve relevant documents because the court had not advised when to preserve the documents
  - Vicky did not violate her duty to preserve relevant documents because it is not the duty of the parties to the litigation to decide which documents to be preserved and at what point
  - All the above
- (1 mark)
54. Which one of the following statements is **NOT** accurate in regard to evidence under the Kenya Evidence Act (CAP 80)
- The evidence act shall not apply to all judicial proceedings in or before any court
  - The evidence act shall not apply to the Kadhi's court
  - The evidence act shall not apply to arbitration and tribunals
  - None of the above
- (1 mark)
55. Which one of the following statements under the Kenya evidence Act is **NOT** accurate?
- Confession by a co-accused implicating himself is admissible as evidence against the criminal defendant
  - Confession by a suspect will not be admissible if it is made before any investigative officer
  - Confession by a co-accused implicating himself is not admissible as evidence against the criminal defendant
  - None of the above
- (1 mark)
56. Which one of the following statements is **ACCURATE** in regard to evidence in a corruption case?
- Most of the corruption cases are proved with exhibits
  - A person who has personal knowledge of the facts in issue and is not a beneficiary of the offence can be a good fact witness to give oral direct evidence in a corruption case
  - Most of the corruption cases are proved through circumstantial evidence
  - None of the above
- (1 mark)
57. Which one of the following questions **BEST** exemplifies a leading question that the prosecution counsel is not allowed to ask an expert witness during examination in chief?
- "How did you link the defendant with the offence?"
  - "You found exhibits incriminating the suspect, is that right?"
  - "Could you please explain how the bribes were given?"
  - None of the above
- (1 mark)
58. Which one of the following statements is **NOT** accurate in regard to examination in chief and re- examination court processes in non- adversarial jurisdictions?
- Examination in chief court process is adversarial questioning that aims at exposing the facts of the case with the court
  - Re-examination court process is non-confrontational questioning that aims at exposing the facts of the case with the court, after cross examination
  - Re- examination court process is non adversarial questioning that is conducted by prosecution counsel
  - None of the above
- (1 mark)
59. Which one of the following statements is **NOT** accurate in regard to questions that defence counsel can ask during cross examination?
- Unlike the prosecution counsel, the defence counsel can ask leading questions during cross examination
  - Defence counsel can ask leading questions after re-examination by the prosecution counsel
  - Defence counsel can only ask leading questions during cross examination
  - Defence counsel can ask closed questions during cross examination
- (1 mark)
60. Which one of the following statements is **ACCURATE** in regard to examination in chief phase of a court proceeding?
- During examination in chief, the prosecution is not allowed to ask the prosecution witness narrative questions
  - During examination in chief the prosecution is not allowed to ask the prosecution witness closed questions
  - During examination in chief, the expert witness should establish the facts of the case by responding to all the open ended and narrative questions
  - During the examination in chief, the expert witness can avoid responding to questions that might support the defence case
- (1 mark)

61. Hearsay evidence is generally not admissible in Kenya. However, there are some exceptions to the hearsay rule. Which one of the following documents is an exemption of the hearsay rule?
- A. Statements against interest
  - B. An affidavit
  - C. Financial statements
  - D. None of the above
- (1 mark)
62. Which one of the following documents is **NOT** a hearsay document?
- A. Financial statements
  - B. Reconciliation statement
  - C. Data analysis reports
  - D. A receipt journal
- (1 mark)
63. In the adversarial jurisdictions, evidence can be excluded because of lack of reliability. Which one of the following rules is **NOT** a special rule in relation to reliability of evidence?
- A. Rule against testimony opinion
  - B. Rule against character evidence
  - C. Rule against hearsay evidence
  - D. Rule of primary documentary evidence
- (1 mark)
64. In adversarial jurisdictions like Kenya, documentary evidence can be excluded because of lack of reliability. Which one of the following rules is related to admissibility of documentary evidence and is an element of chain of custody?
- A. The rule of certification of documents
  - B. Rule against character evidence
  - C. The best rule of - producing the original document
  - D. None of the above
- (1 mark)
65. Which one of the following statements is **INACCURATE** in regard to admissibility of electronic evidence under the Kenya Evidence Act?
- A. In any legal proceedings, electronic messages and digital materials will be admissible as evidence
  - B. Electronic evidence is required to be authenticated to be admissible as evidence
  - C. Electronic evidence must be relevant, in regard to how the electronic digital evidence was generated, stored and communicated
  - D. None of the above
- (1 mark)
66. Which one of the following statements is **NOT** accurate in regard to admissibility of character evidence in fraud or corruption criminal proceedings?
- A. In criminal trials in Kenya's jurisdiction, character witness may testify to the defendant's fraudulent and corrupt character as evidence to prove the facts in issue
  - B. In criminal trials in Kenya's jurisdiction, the defendant character witness may not testify to the defendant's good character based on specifics
  - C. In criminal trials in Kenya jurisdiction, character witness cannot testify to the defendant's fraudulent and corrupt character as evidence to prove the facts in issue
  - D. None of the above
- (1 mark)
67. Which one of the following statements is **NOT** accurate in regard to the role of the legal counsels of the parties to the litigation in Kenya during fraud trial court proceedings?
- A. The prosecution counsel conducts the questioning of their own witness during trial
  - B. The defence counsel conducts the cross examination of the opposing witnesses during trial
  - C. The counsels cross examine their own witnesses
  - D. None of the above
- (1 mark)
68. Which one of the following statements is **NOT** accurate in regard to a criminal fraud trial in a common law jurisdictions?
- A. The prosecution must serve the defendant with evidence that tends to explain the defendant 'guilt away and also evidence incriminating the defendant
  - B. The main objective of the prosecution in a fraud criminal judicial proceeding is not to ensure that the criminal defendant is convicted
  - C. The main objective of the prosecution in a fraud criminal court proceeding is ensure justice
  - D. In a criminal fraud trial, the defendant has the burden to prove that they did not commit the fraud
- (1 mark)

69. Which one of the following statements is **NOT** accurate in regard to documentary evidence?
- A. Any document associated with the facts in issue is real evidence to prove the facts in issue
  - B. Financial statements are hearsay evidence and cannot be introduced as an exhibit to prove misrepresentation of the financial performance of the organisation
  - C. Bank statements of a suspect accused of corruption that show that the suspect deposited substantial amount of money in his account just around the same time of the alleged corruption is not real evidence
  - D. An eye witness testimony statement is not a form of real evidence (1 mark)
70. Brown, a fraud suspect in the inquisitorial jurisdiction provides a written confession statement in a fraud case. Which one of the following statements is **NOT** accurate in relation to prosecution evidence?
- A. Brown's confession is not real evidence
  - B. Brown's confession is not circumstantial evidence
  - C. Brown's confession is direct evidence
  - D. Brown's confession is equivalent to a guilty plea in adversarial jurisdictions (1 mark)
71. Which one of the following statements in regard to questioning of expert witness in Kenyan courts is **NOT** accurate?
- A. The questioning of the expert witness is conducted by the parties to the litigations
  - B. The questioning of the expert witness is conducted during examination in chief and cross examination
  - C. The questioning of the expert witnesses is conducted only during cross examination by the defence counsel
  - D. None of the above (1 mark)
72. Which one of the following statements is **ACCURATE** in regard to an eye witness testimony?
- A. The eye witness testimony must be oral direct evidence, based on personal knowledge
  - B. The eye witness testimony must be based on technical knowledge of the facts being litigated
  - C. The eye witness testimony can be based on information provided by another person who has personal knowledge of the facts in issue
  - D. The eye witness testimony must be oral and written direct evidence (1 mark)
73. Which one of the following statements is **NOT** accurate in regard to the expert witness report or statement?
- A. The prosecution expert witness statement cannot be discovered by the defence before trial
  - B. The expert witness statement is not protected by professional legal privileges
  - C. The expert witness statement must include the basis of the expert witness conclusion
  - D. The expert witness statement must include the expert witness qualifications and experience on the facts being litigated (1 mark)
74. Which one of the following stages is part of the three stages of a criminal proceeding in civil law jurisdiction?
- A. Cross examination
  - B. The trial phase
  - C. Oral written examination
  - D. Direct examination (1 mark)
75. Which one of the following statements is **ACCURATE** in regard to expert witness and the trial process in Kenya's jurisdiction?
- A. The cross examination trial process is conducted by the parties to the litigation
  - B. The cross-examination can only be conducted by the defence counsel
  - C. The examination- in chief of the trial process is conducted by the parties to the litigation (1 mark)
  - D. None of the above
76. Which one of the following statements is **NOT** accurate in regard to re-examination?
- A. Defence counsel can re-examine the expert witness after examination in chief
  - B. The prosecution will first consider, whether conducting re-examination will support their side of the case or weaken the case during cross examination
  - C. Defence counsel can cross examine the expert witness after re-examination
  - D. The prosecution counsel can re-examine the expert witness after cross examination (1 mark)
77. In common law jurisdictions, which one of the following parties may access the full evidentiary record prior to the trial phase of a criminal proceedings?
- A. The parties to the criminal proceedings
  - B. The prosecution only
  - C. The court
  - D. None of the above (1 mark)

78. Joe is being prosecuted for fraud and abuse of office in Kenya. In his defence, Joe calls a witness to testify to his good character. Which one of the following statements is **NOT** accurate in regard to character evidence?
- A. Joe's character witness is a court witness
  - B. Joe's character witness is not direct oral testimonial evidence
  - C. Character witness evidence for the defendant's bad character is not admissible to prove the facts in issue
  - D. Joe's character witness is not a court witness (1 mark)
79. Which one of the following statements is **NOT** accurate in regard to expert testimony in Kenya and other adversarial judicial proceedings?
- A. Expert testimony is oral direct evidence
  - B. Expert testimony is an expert opinion based on specialised skills and knowledge
  - C. Expert testimony assists the judge to determine evidence of technical facts in issue
  - D. Expert testimonial is not oral direct evidence (1 mark)
80. In adversarial jurisdictions like Kenya, which one of the following is **NOT** a question that must be asked to determine whether an expert may testify in court?
- A. Does the expert have technical skills in the subject matter being litigated
  - B. Does the expert have specialised training or professional qualification on the subject matter being litigated
  - C. Does the expert have advanced training in the subject matter being litigated
  - D. Is the expert witness suitable to testify in court of law as a witness (1 mark)
81. Which one of the following phrases **BEST** describes the standard of proof for civil suits in Kenya's jurisdictions?
- A. Beyond reasonable doubts
  - B. More likely than not
  - C. Preponderance of evidence
  - D. None of the above (1 mark)
82. Which one of the following statements concerning the criminal discovery process in adversarial jurisdictions like Kenya is **ACCURATE**?
- A. Both prosecution and defence are not entitled to the attorney's work prepared for litigation purposes
  - B. Both prosecution and defence are allowed to request for all information from each other during pre-trial
  - C. A party to the litigation may be allowed to introduce documents relevant to the facts in issue, which were not served to the opposing party during pre-trial
  - D. None of the above (1 mark)
83. Which one of the following statements concerning judges and juries in common and civil law jurisdictions is **NOT** accurate?
- A. Inquisitorial judicial processes use juries as fact-finders only in serious criminal cases
  - B. In a bench trial, in adversarial jurisdictions, the judge cannot determine both issues of facts and law
  - C. In civil law jurisdictions judges can determine issues of facts and law, both at the high court and court of appeal
  - D. None of the above (1 mark)
84. Which one of the following evidences is a type of real evidence that the prosecution can produce to prove bribery in adversarial jurisdictions?
- A. The defendant's bank statements, showing unexplained deposits
  - B. A witness statement
  - C. A guilty plea
  - D. Unexplained assets owned by the criminal defendant (1 mark)
85. Which one of the following parties may serve as a fact finder in serious criminal proceedings in inquisitorial jurisdictions?
- A. A panel of juries
  - B. A panel of judges
  - C. A panel of lay and legal judges
  - D. None of the above (1 mark)
86. Which one of the following statements is **NOT** accurate in regard to relevant evidence?
- A. For evidence to be admissible, it must be relevant to the alleged offence
  - B. For evidence to be admissible it must be relevant to the alleged offence and other related offences
  - C. Relevant evidence is either inculpatory or exculpatory
  - D. None of the above (1 mark)

87. Which one of the following statements is **ACCURATE** in regard to legal professional privileges?
- A. Legal professional privileges commence after the legal proceedings have begun during pre-trial
  - B. Legal professional privileges commence immediately litigation is reasonably anticipated
  - C. Legal professional privileges commence during trial
  - D. All the above
- (1 mark)
88. Which one of the following statements is **ACCURATE** in regard to an expert witness in a fraud criminal proceeding in Kenya's jurisdiction?
- A. The court can appoint an expert witnesses to express an opinion on the prosecution expert witness opinion
  - B. The expert witnesses owe a duty to the parties that retained them for purposes of criminal proceedings
  - C. The court cannot appoint an expert witnesses in adversarial jurisdictions
  - D. None of the above
- (1 mark)
89. Which one of the following evidences is **NOT** a type of circumstantial evidence that the prosecution can produce to prove bribery in adversarial jurisdictions?
- A. The defendant's bank statements showing unexplained deposits
  - B. A witness statement
  - C. Unexplained assets owned by the criminal defendant
  - D. None of the above
- (1 mark)
90. Hearsay evidence is generally **NOT** admissible Kenya. Which one of the following evidences is an example of a hearsay evidence?
- A. Statements against interest
  - B. A document that directly took part in the commission of the offence
  - C. An affidavit, that was prepared for a purpose
  - D. An oral direct evidence by a witness
- (1 mark)
91. Which one of the following exhibits can be used in a bribery case?
- A. A cancelled check paid to a government official by a contractor
  - B. A witness testifying that they paid a bribe to the government official
  - C. The accused bank statement with deposits that the suspect cannot explain the legitimate sources of the funds
  - D. All the above
- (1 mark)
92. Which one of the following statements is **ACCURATE** in regard to documents that can be introduced in court as exhibits to prove a fraud case?
- A. Documents that can be introduced as exhibits to prove a fraud case are those that were in existence before litigation was anticipated
  - B. Documents that were prepared after litigation was anticipated can be introduced as exhibits to prove a fraud case
  - C. Documents that are prepared for purposes of court proceedings can be introduced as exhibits to prove a fraud case
  - D. None of the above
- (1 mark)
93. Which one of the following statements is **NOT** accurate in regard to evidence?
- A. Kenya has a separate law of evidence which is a type of procedural law
  - B. The evidence Act applies to tribunal proceedings because tribunals are quasi-judicial courts
  - C. The Evidence Act applies to all judicial proceedings
  - D. The evidence Act does not apply to tribunal proceedings, though tribunals are quasi-judicial courts
- (1 mark)
94. Robby, a fraud suspect, enters into a plea bargaining agreement with the prosecution. Which one of the following statements is **ACCURATE** in regard to evidence?
- A. Robby's guilty plea can be entered as direct evidence
  - B. Robby's guilty plea can be entered as oral direct evidence
  - C. Robby's guilty plea is cannot be entered as confession evidence
  - D. None of the above
- (1 mark)

95. Which one of the following statements is **NOT** accurate in regard to testimonial evidence in Kenya?
- A. Testimonial evidence include oral direct testimony, corroborative testimony and expert witness testimony
  - B. Oral direct testimony is given by an eye witness
  - C. Oral direct testimony can be given by an expert witness
  - D. None of the above
- (1 mark)
96. Which one of the following statements is **MOST** accurate in regard to confession in Kenya's Jurisdiction?
- A. A confession is not a form of real evidence
  - B. A confession is a type of direct evidence
  - C. A confession is generally not acceptable in Kenya's jurisdiction
  - D. A confession is an oral direct testimony
- (1 mark)
97. Which one of the following statements in regard to criminal bargaining agreement is **ACCURATE**?
- A. Criminal bargaining agreement is not part of the criminal justice system
  - B. Criminal bargaining agreement procedure is governed by the criminal procedure code
  - C. Criminal bargaining agreement procedure is governed by the criminal procedures plea bargaining rules 2021
  - D. Criminal bargaining agreement procedure is governed by the evidence act
- (1 mark)
98. Flora is being prosecuted in Kenya for fraudulent financial reporting. Which one of the following evidences is **NOT** a type of direct evidence that the prosecution can produce to prove fraudulent financial reporting?
- A. False invoices entered into the books of account to overstate revenue
  - B. An accomplice testimony implicating himself and the accused person
  - C. An eye witness who can provide oral direct evidence based on personal knowledge of the facts in issue
  - D. Books of account
- (1 mark)
99. Redmond, a Certified Fraud Examiner, is testifying in court as an expert witness in an adversarial jurisdiction. During cross-examination, opposing counsel, asks Redmond, "Is it true, do you agree with me"? Which one of the following statements in regard to such questions is **ACCURATE**?
- A. Redmond should answer the question accordingly
  - B. Redmond should request counsel to rephrase the question if they did not understand the question
  - C. Redmond should request counsel to rephrase the question and avoid answering the leading question
  - D. Redmond should refuse to answer the question and ask counsel another question
- (1 mark)
100. The authentication rules also apply to digital evidence and computer records. Which one of the following statements is **ACCURATE** in regard to authentication of computer records?
- A. The digital records must be accompanied by a written certification by the database administrator
  - B. The digital records are self-authenticating, therefore, there is no need for further authentication
  - C. The digital records can be authenticated by the person who created the document
  - D. The digital records can be authenticated by the person who entered the record into the system
- (1 mark)
- .....

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**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 6 December 2023. Afternoon Paper.**

**Time Allowed: 3 hours.**

**Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. This paper is made up of one hundred (100) Multiple Choice Questions. Each question is allocated one (1) mark.**

1. Courts require an expert witness to give an expert opinion. Which of the following statement is **NOT** accurate in regard to an expert witness in a fraud criminal proceeding in Kenya jurisdiction?
  - A. The court does not retain its own expert witnesses to assist the court in interpreting the technical facts of the issue in fact
  - B. The expert witnesses owe a duty to the court during the civil proceedings
  - C. The expert witnesses owe a duty to the parties that retained them for purposes of civil litigation
  - D. None of the above (1 mark)
  
2. Which of the following statements is **NOT** accurate in regard to a criminal fraud trial in the common law jurisdictions?
  - A. The prosecution must serve the defendant with both exculpatory and inculpatory evidence
  - B. The main objective of the prosecution in a fraud criminal judicial proceedings is to ensure that the criminal defendant is convicted
  - C. The main objective of the prosecution in a fraud criminal court proceeding is ensure justice
  - D. The prosecution has the burden of proof (1 mark)
  
3. Which of the following statements is **NOT** accurate in regard to documentary evidence?
  - A. All documents related to the facts in issue are exhibits
  - B. Financial statements are hearsay evidence and cannot be introduced as an exhibit to prove misrepresentation of financial position
  - C. Bank statements of a suspect accused of bribery that show that the suspect deposited substantial amounts of money in his account just around the same time of the alleged bribery is not an exhibit
  - D. None of the above (1 mark)
  
4. Which of the following statements is **ACCURATE** in regard to documents which can be introduced in court as exhibits to prove a fraud case?
  - A. Documents that can be introduced as exhibits to prove a fraud case are those that are relevant to the facts in issue and were in existence before litigation was anticipated
  - B. Documents that can be introduced as exhibits to prove a fraud case are those related to the facts in issue
  - C. Documents that can be introduced as exhibits to prove a fraud case are only those that were prepared for litigation purposes
  - D. None of the above (1 mark)
  
5. Which of the following statements is **NOT** accurate in regard to evidence?
  - A. The rules of evidence under the evidence Act is relevance and admissibility
  - B. Civil law legal systems do not have a separate law of evidence
  - C. The law of evidence governs the admissibility of evidence in legal proceedings
  - D. None of the above (1 mark)

6. Jelly, a fraud suspect, enters into a plea agreement with the prosecution in the common law jurisdiction. Which of the following statements is **ACCURATE** in regard to a guilty plea?
- A. Jelly's guilty plea can be entered as evidence
  - B. Jelly's guilty plea is real evidence
  - C. Jelly's guilty plea is oral direct evidence
  - D. None of the above
- (1 mark)
7. Which of the following statements is **NOT** accurate in regard to testimonial evidence in Kenya?
- A. There are only two types of testimonial evidence, which are oral direct testimony and expert witness testimony
  - B. A corroborative witness cannot give oral direct evidence
  - C. Several witnesses can give oral direct evidence
  - D. None of the above
- (1 mark)
8. In Kenya, expert witnesses are allowed to draw conclusions and express opinions. Which of the following statements is **NOT** accurate in regard to expert opinion testimony?
- A. An expert opinion is a direct testimonial evidence
  - B. The expert opinion must be based on specialised knowledge on the facts in issue
  - C. The expert witness does not have firsthand information of the facts in issue
  - D. None of the above
- (1 mark)
9. Brown, a fraud suspect, in the inquisitorial jurisdiction provides a written confession statement in a fraud case. Which of the following statements is **ACCURATE** in relation to prosecution evidence?
- A. Brown's confession is real evidence
  - B. Brown's confession is circumstantial evidence
  - C. Brown's confession is a direct evidence
  - D. None of the above
- (1 mark)
10. Which of the following statements in regard to questioning of expert witness in Kenyan courts is **NOT** accurate?
- A. The questioning of the expert witness is conducted by the parties to the litigations
  - B. The questioning of the expert witness is conducted during examination in chief and cross examination
  - C. The questioning of the expert witnesses is conducted only during cross examination by the defence counsel
  - D. None of the above
- (1 mark)
11. Which of the following statements is **NOT** accurate in regard to an eye witness testimony?
- A. The eye witness testimony must be oral direct evidence
  - B. The eye witness testimony must be based on personal knowledge of the facts being litigated
  - C. The eye witness testimony can be based on information provided by another person who has personal knowledge of the facts in issue
  - D. None of the above
- (1 mark)
12. Which of the following statements concerning criminal bargaining agreements is **NOT** accurate?
- A. Bargaining agreement has gained popularity in the adversarial jurisdictions in the recent years
  - B. Bargaining agreement is practiced more in the adversarial jurisdictions than in the civil law jurisdictions
  - C. Bargaining agreement is part of the criminal justice system
  - D. None of the above
- (1 mark)
13. Which of the following statements is **NOT** accurate in regard to the expert witness report or statement?
- A. The expert witness report is protected by professional legal privileges
  - B. The expert witness report is not protected by professional legal privileges
  - C. The expert witness report must include the basis of the expert witness conclusion
  - D. None of the above
- (1 mark)
14. Which of the following is one of the three stages of a criminal proceeding in civil law jurisdiction?
- A. The pre- trial phase
  - B. The trial phase
  - C. Oral written examination phase
  - D. None of the above
- (1 mark)

15. Which of the following is **NOT** one of the three stages of a civil proceeding in Kenya and other adversarial jurisdictions?
- A. The pre - trial phase
  - B. Trial phase
  - C. Sentencing phase
  - D. None of the above
- (1 mark)
16. Which of the following statements is **ACCURATE** in regard to expert witness and the trial process in the Kenya jurisdiction?
- A. The cross examination trial process is conducted by the parties to the litigation
  - B. The cross-examination can only be conducted by the defence counsel
  - C. The examination- in chief of the trial process is conducted by the parties to the litigation
  - D. None of the above
- (1 mark)
17. Which of the following statements is **ACCURATE** in regard to adversarial and inquisitorial jurisdictions in relation to re-examination?
- A. Both the prosecution and defence can conduct re-examination of the expert witness
  - B. Only the defence counsel can conduct re-examination of the expert witness
  - C. Defence counsel cannot cross examine the expert witness after re-examination
  - D. None of the above
- (1 mark)
18. In adversarial jurisdictions which of the following parties may access the full evidentiary record prior to the trial phase of a criminal proceedings?
- A. The parties to the litigation
  - B. The prosecution only
  - C. The court
  - D. None of the above
- (1 mark)
19. Nick is being prosecuted for corruption and abuse of office in Kenya. In his defence, Nick calls a witness to testify to his good character. Which of the following statements is **ACCURATE** in regard to character evidence?
- A. Nick's character witness is a court witness
  - B. Nick's character witness is direct oral evidence
  - C. Nick's character witness is direct evidence
  - D. None of the above
- (1 mark)
20. Which of the following is an exhibit in a bribery and conspiracy case?
- A. An asset that was acquired with proceeds of bribery
  - B. A witness testifying that they saw the accused take a bribe
  - C. The accused bank statement with deposits that the suspect cannot explain the legitimate sources of the funds
  - D. None of the above
- (1 mark)
21. Which of the following statements is **NOT** accurate in regard to expert testimony in Kenya and other adversarial judicial proceedings?
- A. Expert opinion is direct evidence based on expertise
  - B. Expert testimony is an expert opinion based on specialised skills and knowledge
  - C. Expert testimony assist the judge to determine evidence of technical facts in issue
  - D. None of the above
- (1 mark)
22. In adversarial jurisdictions like Kenya, which of the following is **NOT** a question that must be asked to determine whether an expert may testify in court?
- A. Does the expert have the required experience in the facts in issue?
  - B. Does the expert have specialised training and qualification of the facts in issue?
  - C. Does the expert have advanced training on the subject being litigated?
  - D. None of the above
- (1 mark)
23. Which of the following **BEST** describes the standard of proof for civil trials in Kenya jurisdictions?
- A. Beyond reasonable doubts
  - B. More likely than not
  - C. Preponderance of evidence
  - D. None of the above
- (1 mark)

24. Which of the following statements concerning the criminal discovery process in adversarial jurisdictions like Kenya is **ACCURATE**?
- A. Both the prosecution and defence are not entitled to discover all information during pretrial
  - B. Both the prosecution and the defence are allowed to request for all information from each other during pre-trial, that will be presented during trial
  - C. A party to the litigation may be allowed to introduce exhibits that were not served to the opposing party during pre-trial
  - D. None of the above
- (1 mark)
25. Which of the following statements concerning judges and juries in common and civil law jurisdictions is **NOT** accurate?
- A. Inquisitorial judicial processes use juries as fact-finders in all criminal cases
  - B. In a bench trial, in adversarial jurisdictions, the judge can determine both issues of facts and law
  - C. In adversarial jurisdictions judges can only determine issues of facts
  - D. None of the above
- (1 mark)
26. In the inquisitorial jurisdiction, which of the following statements is **NOT** accurate in regard to having the full evidentiary record of criminal proceedings?
- A. Only the presiding judge because he drives the discovery of evidence
  - B. Only the prosecutor because he drives the discovery of evidence
  - C. Both the parties to the litigation can have full access to the evidentiary record
  - D. None of the above
- (1 mark)
27. Alfred is the Chief executive officer of Precious CORP. Alfred is being prosecuted in Kenya for fraudulent financial reporting. Which of the following is **NOT** a type of real evidence that the prosecution can produce to prove fraudulent financial reporting?
- A. False invoices entered into the books of account to overstate revenue
  - B. An accomplice testimony against the accused person
  - C. Concealed payable invoices
  - D. Books of account
- (1 mark)
28. Which of the following parties may serve as a fact finder in serious criminal proceedings in inquisitorial jurisdictions?
- A. A panel of juries
  - B. A panel of judges
  - C. A panel of legal judges
  - D. None of the above
- (1 mark)
29. Which of the following statements is **MOST** accurate in regard to admissibility of evidence?
- A. Relevant evidence must be exculpatory
  - B. The prosecution can only produce incriminating evidence in court to try and get the criminal defendant convicted
  - C. Relevant evidence can only be inculpatory
  - D. None of the above
- (1 mark)
30. Which of the following statements is **ACCURATE** in regard to legal professional privileges?
- A. Legal professional privileges commence after the legal proceedings have began
  - B. Legal professional privileges commence immediately once litigation is reasonably anticipated
  - C. Legal professional privileges commence immediately once litigation is contemplated
  - D. All the above
- (1 mark)
31. A digital forensic expert seized a computer of a compromised computer system. If the computer forensic expert cannot verify who provided him with the computer's hard drive and who have had position of the computer since it was seized, then questions will be raised regarding which of the following?
- A. The authenticity of the hard drive
  - B. The security of the hard drive image
  - C. Reliability of the evidence
  - D. None of the above
- (1 mark)

32. Which of the following statements is **ACCURATE** in regard to adversarial judicial process in a bribery criminal trial?
- A. An expert witness may express an opinion regarding the criminal defendant's liability
  - B. An expert witness may express an opinion regarding the criminal defendant's responsibility for the offence
  - C. An expert witness must express an opinion regarding the criminal defendant's intent to commit the offence
  - D. None of the above
- (1 mark)
33. In the adversarial jurisdictions, which of the following is generally **NOT** an objective of the defence counsel during the cross-examination of an expert witness?
- A. To ask questions that they already have an answer
  - B. To obtain information about the expert witness's previous contradicting statements to question the witness's honesty and truthfulness
  - C. To diminish the importance of the expert's testimony by showing that the evidence is irrelevant and unreliable
  - D. None of the above
- (1 mark)
34. Which of the following is an example of testimonial direct oral evidence in Kenya?
- A. Witness testimony about red flags of fraud
  - B. Expert testimony based on interpretation of the facts
  - C. Testimony that the defendant deposited seven million shillings into his account three days after the money was stolen from his employer
  - D. None of the above
- (1 mark)
35. In systems using adversarial processes, an attorney may impeach an opposing party's witness by attacking either their knowledge of the subject in issue or their credibility. Which of the following is **NOT** an example of impeachment based on the witness's credibility?
- A. The expert has a conflict of interest
  - B. The expert is not well trained on the subject matter
  - C. The expert has a undisclosed conflict of interest
  - D. None of the above
- (1 mark)
36. In civil litigation in inquisitorial jurisdictions, which of the following is **NOT** correct in regard to evidentiary record?
- A. Evidentiary record is created by the presiding judge
  - B. Evidentiary record is created during the examination phase
  - C. Evidentiary record is discovered by the court during trial
  - D. None of the above
- (1 mark)
37. Which of the following statements is **ACCURATE** in regard to admissibility of relevant evidence in adversarial jurisdictions?
- A. Relevant evidence may be admissible if it is relevant to prove other related facts
  - B. Relevant evidence may be admissible even if the evidence is determined by the expert witness
  - C. Relevant evidence may be admissible if it is relevant to facts in issue, and determine if the criminal defendant is liable for the offence or not
  - D. None of the above
- (1 mark)
38. Which of the following statements is **NOT** accurate in regard to hearsay evidence?
- A. Hearsay evidence is generally inadmissible
  - B. Documents are generally hearsay
  - C. Hearsay evidence is not admissible under any circumstances
  - D. None of the above
- (1 mark)
39. In cross-examination of a prosecution expert witness, which of the following is an objective of cross-examination counsel when he asks questions as if he/she is looking for an answer from the expert witness?
- A. Making the expert contradict himself
  - B. Making the expert a sounding board by continuously agreeing with the defence counsel's position
  - C. Making the expert agree that he did not cover all the areas of the investigation adequately
  - D. None of the above
- (1 mark)

40. Which of the following statements is **ACCURATE** in relation to Anti-fraud professionals' code of ethics, like the ACFE Code of Professional Ethics
- A. The expert can testify to opinion of guilt or innocence
  - B. The expert can testify to opinions of the opposing expert witness testimony
  - C. The expert cannot testify on technical matters
  - D. All the above
- (1 mark)
41. In adversarial jurisdictions, for a document to be admitted into evidence, which of the follow is **NOT** a requirement?
- A. The document must be real evidence
  - B. The document must be properly authenticated
  - C. The document must be certified
  - D. None of the above
- (1 mark)
42. Which of the following statements is **ACCURATE** in regard to duty to preserve information relevant to a case, in the civil law jurisdiction?
- A. The duty arises after pre-trial
  - B. The duty arises before pre-trial
  - C. The duty arises during pre-trial
  - D. None of the above
- (1 mark)
43. Which of the following statements is **NOT** accurate in regard to prosecution's right to obtain disclosure of information from the defendants in criminal proceedings in adversarial jurisdictions?
- A. The prosecution is entitled to limited disclosures
  - B. The prosecution is entitled to all information that will be used in court
  - C. Both the prosecution and defence are entitled to limited disclosures
  - D. None of the above
- (1 mark)
44. Which of the following statements is **NOT** accurate in regard to waiver of privileges?
- A. Waiver of a legal professional privilege occurs when a client shares privileged information with a third party retained to offer professional advice
  - B. Legal professional privileges can be extended to a third-party under some circumstances
  - C. Legal professional privileges can be extended to a third-party for legal support services
  - D. All the above
- (1 mark)
45. Carey is retained by a court to provide an expert opinion involving specialised knowledge in construction. Which of the following jurisdiction is Carey giving expert testimony?
- A. Adversarial jurisdiction
  - B. Civil Justice System
  - C. Civil law jurisdiction
  - D. Common law jurisdiction
- (1 mark)
46. Which of the following is a method of pre-trial civil discovery used in most adversarial jurisdictions?
- A. Summary judgement
  - B. Search warrants
  - C. Direct examination
  - D. Oral and written examination
- (1 mark)
47. Which of the following statements is **NOT** accurate in regard to appointment of expert witnesses in the civil law jurisdiction?
- A. In inquisitorial jurisdictions, the parties to the litigation cannot appoint their expert witness
  - B. In the civil law jurisdictions, the defence can appoint their own expert witnesses
  - C. In the civil law jurisdictions, the parties to the litigation can appoint their expert witnesses
  - D. None of the above
- (1 mark)
48. Which of the following statements is **ACCURATE** in relation to appellate courts in common legal systems?
- A. In most adversarial jurisdictions, a civil appellate court generally interviews additional fact witnesses and expert witnesses and collects new documentary evidence
  - B. In most common law jurisdictions, a civil appellate court can review issues of facts but cannot make a determination on issues of evidence

- C. In most common law jurisdictions, a civil appellate court can order for a fresh trial and refer the case to the bench court
- D. None of the above (1 mark)
49. Which of the following **BEST** describes the type of evidence found in the suspect's bank statement alleged to be engaging in receiving kickbacks?
- A. Direct evidence
- B. Real evidence
- C. Exhibits
- D. None of the above (1 mark)
50. Cross examination, is usually conducted through questions. Which of the following types of questions is the defence counsel likely to use extensively on the prosecution expert witness.?
- A. Complex questions
- B. Narrative questions
- C. Open questions
- D. None of the above (1 mark)
51. In inquisitorial jurisdictions, which of the following **BEST** describes the major role of the advocates of the parties to the litigation in civil litigation?
- A. The advocates conduct the questioning of the witnesses
- B. The defence counsel cross examines the prosecution witness
- C. The advocates drive the discovery of evidence
- D. None of the above (1 mark)
52. Defence counsel usually ask complex or confusing questions during cross-examination. Certified Fraud Examiners must be aware of the type of questions defence counsel is likely to ask. Which of the following is a type of questions that a defence counsel is **NOT** likely to use extensively?
- A. Narrative questions
- B. Closed questions
- C. Leading questions
- D. None of the above (1 mark)
53. Which of the following statements is **ACCURATE** in regard to an expert witness?
- A. The Certified Forensic Fraud Examiner (CFFE) credential demonstrates expertise in fraud prevention and investigation, therefore CFFEs are automatically qualified to give testimony in any fraud-related issues
- B. To testify in court as an expert witness, the witness must have formal training and experience in the facts in issue
- C. To testify in court as an expert witness, the witness must have personal knowledge of the facts in issue
- D. None of the above (1 mark)
54. Which of the following items should basically be included in the trial record of civil trials in inquisitorial jurisdictions?
- A. All documents related to the facts in issue
- B. A word-for-word transcript of all oral testimony
- C. All information provided by witnesses
- D. None of the above (1 mark)
55. Which of the following statements is **ACCURATE** in regard to testimonial evidence in a court of law in Kenya?
- A. A fraud investigator can provide oral direct evidence based on evidence collected during investigations
- B. An auditor who detects a fraudulent scheme in the course of a routine audit can be called to testify in to offer oral direct evidence
- C. A witness called in court to provide a document can offer oral direct evidence
- D. None of the above (1 mark)
56. Which of the following statements is **NOT** accurate in regard to admission of evidence under the evidence Act Cap 80 in relation to a fraud case?
- A. If a defendant admits in civil proceedings the facts need not be proved
- B. If a criminal defendant made a confession incriminating himself, such confessions are generally not admissible
- C. Admissions by a criminal defendant can be admissible if they are made before a judge, magistrate or a police officer in the rank of a chief inspector
- D. Admission by a defendant in civil proceedings is generally not admissible (1 mark)

57. Which of the following statements is **NOT** accurate in regard to witnesses under the Kenya evidence Act?
- A. A witness called to produce a document is not a court witness
  - B. A witness called to produce a document is not a court witness therefore cannot be cross examined
  - C. A person called to produce a document is a court witness, and can be cross-examined
  - D. None of the above
- (1 mark)
58. Which of the following statements is **NOT** accurate in regard to exhibits?
- A. All documents related to facts in issue are not exhibits
  - B. Exhibits are tangible items and forms of real evidence
  - C. Demonstrative evidence is a tangible evidence so it is also an exhibit
  - D. None of the above
- (1 mark)
59. In a common law jurisdiction like Kenya, which of the following is **NOT** a reason that counsel can use to impeach a lay/eye witness opposing party's witness?
- A. The lay witness does not have personal knowledge of the facts in issue
  - B. The lay witness is biased
  - C. The witness is dishonest
  - D. None of the above
- (1 mark)
60. Which of the following statements is **NOT** accurate in regard to how a witness should conduct himself in a court of law while giving testimony?
- A. A witness should refrain from arguing with the defence counsel, if the examining counsel behave in an outrageous manner
  - B. The witnesses should avoid answering some questions, where the appropriate answer would support the opposing side answer
  - C. The witnesses should evade answering some questions, where the appropriate answer would support the opposing side answer
  - D. None of the above
- (1 mark)
61. Which of the following statements is **NOT** accurate in regard to communication between an attorney and his client?
- A. The client and advocate should keep the communications confidential
  - B. The purpose of the communications was to seek legal professional services
  - C. The advocate and client communication cannot be communicated to a third party
  - D. All the above
- (1 mark)
62. Which of the following is **NOT** accurate in regard to a trial process in a civil trial in adversarial jurisdictions?
- A. The Pre conference phase
  - B. The trial phase
  - C. Sentencing
  - D. None of the above
- (1 mark)
63. In a criminal trial involving allegations of money laundering, the prosecution introduces a document to illustrate relationship of transactions with several degrees of separation. Which of the following **BEST** describes the visual form of evidence?
- A. Direct evidence
  - B. Documentary evidence
  - C. Circumstantial evidence
  - D. None of the above
- (1 mark)
64. During cross-examination counsel uses several techniques. Which of the following terms **BEST** describe the advocate's technique for getting the expert witness to agree to a large amount of time being spent in one area of the investigation, only for the questioning to be on an area that the investigator did not cover, so as to show that the investigator's work was limited in scope?
- A. Contradiction
  - B. Myopic vision
  - C. Sounding board
  - D. None of the above
- (1 mark)

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65. Which of the following statements is **ACCURATE** in regard to expert witnesses in adversarial jurisdictions?
- An opposing expert witness cannot testify about the opinions of another expert
  - An expert witness can only be appointed by the court
  - An expert witnesses can be appointed by the court to give an opinion different from that reached by an equally credible expert called by the parties to the litigation
  - None of the above
- (1 mark)
66. Which of the following statements is **ACCURATE** in regard to juries in legal trial process in the adversarial jurisdictions in civil and criminal trials?
- In civil trials in some common law jurisdictions, the jury verdict must be unanimous
  - In criminal trails in common law jurisdictions, the jury verdict must be supported by the majority
  - Common law jurisdictions that use juries does not use juries in criminal trials
  - None of the above
- (1 mark)
67. A fraud examiner in his fraud investigation report stated that, he found that twenty million shillings have been embezzled. The facts to support the same was that he found that the day the money was withdrawn from the account, a few days later the same amount of money was deposited in the defendant's account. Which of the following **BEST** describes the evidence stated in the forensic audit report?
- Demonstrative evidence
  - Real evidence
  - Direct evidence
  - None of the above
- (1 mark)
68. Which of the following statements is **NOT** accurate in regard to civil trial process in Kenya?
- The plaintiff counsel conduct examination in- chief of their witness
  - The defendant counsel cross examines the plaintiff witness
  - The prosecution counsel can re-examine the plaintiff witness on matters raised during cross examination
  - None of the above
- (1 mark)
69. Which of the following is **NOT** accurate in regard to the admissibility of evidence in adversarial jurisdiction?
- The purpose of authentication requirement in most common law systems is to ensure that a document is not misrepresented
  - The reason for not including hearsay evidence in common law jurisdictions is because hearsay evidence is not reliable.
  - Character evidence is inadmissible as evidence because it not relevant to the facts in issue
  - None of the above
- (1 mark)
70. Adversarial jurisdictions allow parties to conduct a sworn testimony given by a party or witness upon questioning by counsel for one of the parties. Which of the following **BEST** describes the type of examination?
- Cross-examination
  - Re-examination
  - Direct examination
  - Oral/written testimony
- (1 mark)
71. Which of the following statements, in regard to burden of proof in civil trial is **ACCURATE**?
- In adversarial jurisdictions the burden of proof is with the defendant
  - In the common law jurisdictions, the burden of proof is with the prosecution
  - In inquisitorial jurisdictions the burden of proof is with the defendant
  - None of the above
- (1 mark)
72. Which of the following statements is **NOT** accurate in regard to defendant's testimony in both the inquisitorial and adversarial jurisdictions?
- In inquisitorial judicial processes, criminal defendants are generally required to provide testimony, if so directed by the court
  - In inquisitorial judicial processes, criminal defendants have a right to remain silent
  - In adversarial judicial processes, criminal defendants have a right to remain silent
  - None of the above
- (1 mark)
73. Which of the following statements is **NOT** accurate in regard to civil trial court of appeal in the adversarial jurisdiction?
- The appellate court can determine only issues of law
  - The winning party in a civil trial can also appeal

- C. The appellate court can review issues of evidence  
D. None of the above (1 mark)
74. Which of the following statements is **ACCURATE** in regard to testimonial and documentary evidence in the adversarial jurisdictions?  
A. Common law jurisdictions favor documentary evidence over testimonial evidence  
B. Adversarial jurisdiction favor documentary evidence because documents are tangible evidence  
C. Common law jurisdiction can admit some hearsay documentary evidence like statements against interest  
D. None of the above (1 mark)
75. Under the Kenya Evidence Act, which of the following statements is **NOT** accurate?  
A. Oral direct evidence is a form of real evidence provided by a witness with firsthand information of the facts in issue  
B. Oral direct evidence can only be given by a witness with firsthand information of the facts in issue  
C. Oral direct evidence is a form of testimonial evidence  
D. All the above (1 mark)
76. Which of the following statements is **NOT** accurate in regard to cross-examination?  
A. During cross-examination in adversarial jurisdictions, it is a general rule of the opposing counsel to cross-examine an expert witness by asking questions that will support the defence  
B. During cross-examinations in adversarial jurisdictions, it is a general rule for opposing counsel to cross-examine an expert witness by asking leading questions where the answer will be yes or no  
C. In inquisitorial jurisdictions, the defense counsel will be allowed to question court appointed expert witness  
D. None of the above (1 mark)
77. Which of the following statements in regard to evidence in criminal trials is **NOT** accurate?  
A. Physical evidence must be properly authenticated as a requirement for admission to evidence  
B. Adversarial jurisdictions tend to have more stringent requirements for admissibility of evidence than the civil law jurisdictions  
C. The objective of restrictions on admissibility of evidence is to ensure that both defendant and prosecution get fair trial  
D. None of the above (1 mark)
78. Which of the following statements in regard to admissibility of evidence is **ACCURATE**?  
A. In the common law jurisdiction, one party cannot object to another person offer of evidence  
B. Evidence cannot be inadmissible even if it is relevant and reliable  
C. In adversarial jurisdictions relevant evidence to prove other facts in issue will be inadmissible to prove facts in issue in a court proceeding  
D. None of the above (1 mark)
79. Which of the following statements is **ACCURATE** in regard to the standard of proof in a criminal trial in Kenya?  
A. The evidence must not have any reasonable doubt  
B. Evidence presented must be on balance of probability  
C. Standard of proof is the inner conviction of the judge  
D. None of the above (1 mark)
80. In the adversarial jurisdictions, relevance and admissibility are basic principles of evidence. Which of the following evidence is **NOT** admissible?  
A. Real evidence that is relevant to prove other facts in issue  
B. Exhibits that are relevant to the facts in issue  
C. Direct oral evidence  
D. None of the above (1 mark)
81. Which of the following scenarios would **NOT** result to waiver of a client's legal professional privilege over confidential communications with his attorney?  
A. The client's counsel shares privileged communications with a consulting expert  
B. The client intentionally shares privileged communications with an unrelated third party who has no legitimate interest in the matter  
C. The client accidentally forwards an email with privileged information to unrelated third parties who have no need to know the information.  
D. All of the above (1 mark)

82. Which of the following statements is **NOT** accurate in regard to expert witnesses in inquisitorial jurisdictions?
- A. In inquisitorial jurisdiction the court appoints the primary expert witness
  - B. In inquisitorial jurisdiction the parties to the litigation cannot appoint their own expert witnesses
  - C. In inquisitorial jurisdiction the presiding judge presents the evidence for both sides before the trial judge
  - D. All the above (1 mark)
83. Which of the following statements is **MOST** accurate in regard to admissibility of evidence in adversarial jurisdictions like Kenya?
- A. The objective of the restriction of admissibility of evidence is to ensure that the Prosecution gets a fair trial
  - B. The objective of the restriction of admissibility of evidence is to ensure that the criminal defendant gets a fair trial
  - C. The objective of the restriction of admissibility of evidence is to ensure that the defendant gets a fair trial
  - D. None of the above (1 mark)
84. Carl is a lead suspect in an ongoing civil investigation in civil law jurisdiction that will likely end up in litigation. Carl unknowingly shredded the original documents that were relevant to the facts in issue. Which of the following statements is **ACCURATE**?
- A. Carl violated his duty to preserve relevant information because he destroyed evidence relevant to a reasonably anticipated litigation
  - B. Carl did not violate his duty to preserve relevant information because the court had not advised on which documents should be preserved and at what point
  - C. Carl did not violate his duty to preserve relevant information because the court proceedings had not commenced
  - D. None of the above (1 mark)
85. Which of the following statements is **ACCURATE** in regard to evidence under the Kenya Evidence Act (CAP 80)?
- A. The evidence act shall apply to all judicial proceedings in or before any court
  - B. The evidence act shall apply to the Kadhi's court
  - C. The evidence act shall apply to arbitration and tribunals
  - D. None of the above (1 mark)
86. Which of the following statements in under the Kenya evidence Act is **ACCURATE**?
- A. Confession by a co-accused implicating himself is admissible as evidence against the criminal defendant
  - B. Confession by a suspect will not be admissible if it is made before any investigative officer
  - C. Confession by a co-accused implicating himself is not admissible as evidence against the criminal defendant
  - D. None of the above (1 mark)
87. Which of the following statements is **ACCURATE** in regard to evidence in a fraud case?
- A. Most of the fraud cases can be proven with real evidence
  - B. A person who has personal knowledge of a fraudulent transaction and is not a beneficiary of the offence cannot be a good fact witness to give oral direct evidence
  - C. An accomplice can provide oral direct evidence
  - D. None of the above (1 mark)
88. Which of the following question **BEST** describes a leading question, that the prosecution counsel is allowed to ask an expert witness during examination in chief?
- A. "How did You find out that suspect committed the offence?"
  - B. "You found exhibits incriminating the suspect?"
  - C. "Could you please explain how the bribes were given?"
  - D. None of the above (1 mark)
89. Which of the following statements is **NOT** accurate in regard to examination in chief and re- examination court processes in adversarial jurisdictions?
- A. Examination in chief court process is adversarial questioning that aims at exposing the facts of the case with the court
  - B. Re-examination court process is non-confrontational questioning that aims at exposing the facts of the case with the court, after cross examination

- C. Re-examination court process is non adversarial questioning that is conducted by prosecution counsel  
D. None of the above (1 mark)
90. Which of the following is **NOT** accurate in regard to questions that cross examination counsel can ask during cross examination?  
A. Unlike the prosecution counsel, the defence counsel can ask leading questions during cross examination  
B. Unlike the defence counsel, the prosecution counsel is not allowed to ask leading questions during re-examination  
C. Prosecution counsel is allowed to ask leading questions during re- examination  
D. None of the above (1 mark)
91. Which of the following statements is **ACCURATE** in regard to examination in chief phase of a court proceeding?  
A. During examination in chief phase the prosecutor is not allowed to ask the prosecution witness open ended questions  
B. During examination in chief the prosecutor is allowed to ask the prosecution witness leading questions  
C. During examination in chief phase of a court proceedings, the prosecutor is not allowed to ask the prosecution witness narrative questions  
D. None of the above (1 mark)
92. Hearsay evidence is generally not admissible in the adversarial jurisdictions like Kenya. However, there are exceptions to the hearsay rule. Which of the following is an exemption of the hearsay rule?  
A. Statements against interest  
B. An affidavit  
C. Financial statements  
D. None of the above (1 mark)
93. Documents are generally considered as hearsay. Which of the following is **NOT** a hearsay document?  
A. A Bank statement  
B. Bank reconciliation statement  
C. Receipt and deposits analysis  
D. None of the above (1 mark)
94. In the common law jurisdictions, evidence can be excluded because of lack of reliability. Which of the following is **NOT** a rule of admissibility of evidence related to reliability?  
A. Rule of authentication  
B. Rule against character evidence  
C. Rule against hearsay evidence  
D. None of the above (1 mark)
95. In adversarial jurisdictions like Kenya, documentary evidence can be excluded because of lack of chain of custody. Which of the following is a rule related to admissibility of documentary evidence in relation to chain of custody?  
A. Rule against hearsay  
B. Rule against character evidence  
C. The best rule evidence  
D. None of the above (1 mark)
96. Which of the following is **NOT** quite accurate in regard to admissibility of electronic evidence under the Kenya Evidence Act?  
A. In any legal proceedings, electronic messages and digital materials will be admissible as evidence  
B. Just like tangible evidence, electronic evidence is required to be authenticated to be admissible as evidence  
C. Electronic evidence must be relevant to the manner in which the electronic digital evidence was generated, stored and communicated  
D. None of the above (1 mark)

97. Which of the following statements is **ACCURATE** in regard to admissibility of character evidence in Kenyan courts?
- A. In criminal trials in Kenya jurisdictions, character witnesses may testify about the defendant's bad character
  - B. In criminal trials in Kenya jurisdictions, character witnesses may not testify about the defendant's good character based on specifics
  - C. In criminal trials in Kenya jurisdictions, defendant's bad character cannot be used for conviction purposes
  - D. None of the above (1 mark)
98. Which of the following is **ACCURATE** in regard to admissibility of electronic evidence under the Kenya Evidence Act?
- A. In legal proceedings, electronic messages and digital materials will be admissible as evidence
  - B. Electronic evidence does not have the same authentication requirement like tangible evidence, to be admissible in court
  - C. Certified copy of an electronic evidence can be admissible in a court of law
  - D. None of the above (1 mark)
99. In adversarial jurisdictions, which of the following **BEST** describes the role of the advocates during court proceedings
- A. The advocates conduct the questioning of the opposing witness during trial
  - B. The advocates conduct the cross examination of the opposing witnesses during trial
  - C. The advocates conduct cross examination of their own witnesses
  - D. None of the above (1 mark)
100. In civil law jurisdictions, which of the following **BEST** describes the role of the advocates during court proceedings
- A. The advocates conduct the questioning of the opposing witness during trial
  - B. The advocates conduct the cross examination of the opposing witnesses during trial
  - C. The advocates conduct cross examination of their own witnesses
  - D. None of the above (1 mark)
- .....

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**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 23 August 2023. Afternoon Paper.**

**Time Allowed: 3 hours.**

**Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. This paper is made up of one hundred (100) Multiple Choice Questions. Each question is allocated one (1) mark.**

1. Fraud cases can be very technical. Therefore, courts require an expert witness to give an expert opinion. Which of the following statements is **ACCURATE** in regard to an expert witness, in a fraud civil litigation, in Kenya jurisdiction?
  - A. The court retains its own expert witnesses to assist the court in interpreting the technical facts of the issue in fact
  - B. The expert witnesses owe a duty to the court during the civil proceedings
  - C. The expert witnesses owe a duty to the parties that retained them, for purposes of civil litigation
  - D. None of the above (1 mark)
  
2. Which of the following statements is **NOT** accurate in regard to fraud trial?
  - A. A fraud case can be prosecuted as civil and criminal case concurrently
  - B. The main objective of the prosecution in a fraud criminal judicial proceedings is to have the criminal defendant punished if found guilty
  - C. The main objective of the prosecution in a fraud criminal court proceeding is recover lost resource on behalf of the victim
  - D. None of the above (1 mark)
  
3. Which of the following statements is **NOT** accurate in regard to documentary evidence?
  - A. Not all documents related to the facts in issue are real evidence
  - B. Financial statements are hearsay evidence, and cannot be introduced as an exhibit to prove misrepresentation of either financial performance or position
  - C. Bank statements of a suspect accused of bribery, that show that the suspect deposited substantial amounts of money in his account just around the same time of the alleged bribery, cannot be introduced as an exhibit to prove bribery
  - D. None of the above (1 mark)
  
4. Which of the following statements is **NOT** accurate in regard to which documents that could be introduced in court as exhibits to prove a fraud case?
  - A. Documents that can be introduced as exhibits, to prove a fraud case are those that are relevant to the facts in issue and were in existence before litigation was anticipated
  - B. Documents that can be introduced as exhibits, to prove a fraud case are those that took part in the commission of the offence
  - C. Documents that can be introduced as exhibits, to prove a fraud case are only those that were prepared as business transaction
  - D. None of the above (1 mark)
  
5. Which of the following statements is **NOT** accurate in regard to evidence?
  - A. Most adversarial jurisdictions like Kenya do not have a separate law of evidence
  - B. Civil law legal systems do not have separate law of evidence
  - C. The law of evidence governs the admissibility of evidence in legal proceedings
  - D. The admissibility of evidence highly depends on the rules of evidence (1 mark)

6. Jack Omollo, a fraud suspect, enters into a plea agreement with the prosecution. Which of the following statements is **ACCURATE** in regard to evidence?
- A. Jack's guilty plea can be entered as evidence
  - B. Jack's guilty plea is real evidence
  - C. Jack's guilty plea is oral direct evidence
  - D. None of the above
- (1 mark)
7. Which of the following statements is **NOT** accurate in regard to testimonial evidence in Kenya?
- A. There are only two types of testimonial evidence, which are, oral direct testimony and expert witness testimony
  - B. A corroborative witness can give oral direct evidence
  - C. Several witnesses can give oral direct evidence
  - D. None of the above
- (1 mark)
8. In Kenya, expert witnesses are allowed to draw conclusions and express opinions. Which of the following is **ACCURATE** in regard to expert opinion testimony?
- A. An expert opinion is a direct evidence
  - B. The expert opinion must be based on skills and knowledge on the facts in issue
  - C. The expert witness must have firsthand information of the facts in issue
  - D. None of the above
- (1 mark)
9. Brenda Maina, a fraud suspect, in the inquisitorial jurisdiction provided a written confession statement in a fraud case. Which of the following statements is **ACCURATE** in relation to prosecution evidence?
- A. Brenda's confession is real evidence
  - B. Brenda's confession is circumstantial evidence
  - C. Brenda's confession is a guilty plea
  - D. None of the above
- (1 mark)
10. Which of the following statements, in regard to questioning of expert witness in Kenyan courts is **ACCURATE**?
- A. The questioning of the expert witness is conducted by the trial judge
  - B. The questioning of the expert witness is conducted by the defence counsel only
  - C. The questioning of the expert witnesses is conducted only during cross examination by the defence counsel
  - D. None of the above
- (1 mark)
11. Which of the following statements is **ACCURATE** in regard to an eye witness testimony?
- A. The eye witness testimony must be oral direct evidence
  - B. The eye witness testimony opinion must be based on specialised knowledge
  - C. The eye witness testimony can be based on information provided by another person who has personal knowledge of the facts in issue
  - D. None of the above
- (1 mark)
12. Which of the following statements concerning criminal bargaining agreements is **NOT** accurate?
- A. Bargaining agreement has experienced a lot of opposition in the common law jurisdictions in the recent years
  - B. Bargaining agreement is practiced more in the adversarial jurisdictions than in the inquisitorial jurisdictions
  - C. Bargaining agreement is an efficient method of disposing criminal cases.
  - D. None of the above
- (1 mark)
13. Which of the following statements is **NOT** accurate in regard to the expert witness report or statement?
- A. The expert witness report is protected by professional legal privileges
  - B. The expert witness report should include the qualifications and expertise of the expert witness
  - C. The expert witness report is not protected by professional legal privileges
  - D. The expert witness report must include the basis of their conclusion
- (1 mark)
14. Which of the following is **NOT** one of the three stages of a criminal proceeding in civil law jurisdiction?
- A. The pre- trial phase
  - B. The trial phase
  - C. The examination phase
  - D. None of the above
- (1 mark)

15. Which of the following is **NOT** one of the three stages of a civil proceeding in Kenya and other adversarial jurisdictions?
- A. The pre - trial phase
  - B. Trial phase
  - C. The investigation phase
  - D. None of the above
- (1 mark)
16. Which of the following statements is **ACCURATE** in regard to expert witness and the trial process in the Kenya jurisdiction?
- A. The examination- in chief of the trial process is conducted by the parties to the litigation
  - B. The cross-examination can only be conducted by the defence counsel
  - C. The examination- in chief of the trial process is conducted by the judge
  - D. None of the above
- (1 mark)
17. Which of the following statements is **ACCURATE** in regard to adversarial and inquisitorial jurisdictions in relation to re-examination?
- A. Both the prosecution and defence can conduct re-examination of the expert witness
  - B. Only the prosecution counsel can conduct re-examination of the expert witness
  - C. Defence counsel cannot cross examine the expert witness after re-examination
  - D. None of the above
- (1 mark)
18. In adversarial jurisdictions, which of the following parties may access the full evidentiary record prior to the trial phase of a criminal proceedings?
- A. The parties to the litigation
  - B. The prosecution only
  - C. The court
  - D. None of the above
- (1 mark)
19. Alex Kiptoo is being prosecuted for corruption and abuse of office in Kenya. In his defence, Alex calls a witness to testify to his good character. Which of the following statements is **ACCURATE** in regard to character evidence?
- A. Alex's character witness is a court witness
  - B. Alex's character witness is circumstantial evidence
  - C. Alex's character witness is not a court witness
  - D. None of the above
- (1 mark)
20. Which of the following statements is **NOT** an exhibit in a fraud case?
- A. A fictitious sales invoice that was used to demand payment from the organisation
  - B. A forged cheque that is used to withdrawal money from the bank
  - C. Statement of financial position
  - D. A fraudulent electronic money transfer
- (1 mark)
21. Which of the following statements is **NOT** accurate in regard to expert testimony in Kenya and other adversarial judicial proceedings?
- A. Expert testimony, is an oral direct evidence based on expertise
  - B. Expert testimony is an expert opinion based on expertise
  - C. Expert testimony assist the judge or jury determine evidence of technical facts in issue
  - D. None of the above
- (1 mark)
22. Which of the following statements is **ACCURATE** in regard to impeaching an expert witness on claims of conflict of interest?
- A. The expert witness was a high school classmate of the suspect therefore he would have a conflict of interest
  - B. The testifying expert was a college mate with the client, the same year and used to meet regularly during college activities, therefore he would have a conflict of interest
  - C. The testifying expert was compensated far beyond the normal rates by the client for his service
  - D. None of the above
- (1 mark)

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23. In adversarial jurisdictions like Kenya, which of the following is **NOT** a question that must be asked to determine whether an expert may testify in court?
- A. Does the expert have the required experience in the facts at issue
  - B. Is the testimony based on reliable sources
  - C. Does the expert have advanced training on the subject being litigated
  - D. None of the above
- (1 mark)
24. Which of the following statements **BEST** describes the standard of proof for civil trials in Kenya jurisdictions?
- A. Beyond reasonable doubts
  - B. More likely than not
  - C. Preponderance of evidence
  - D. None of the above
- (1 mark)
25. Which of the following statements concerning the criminal discovery process in adversarial jurisdictions like Kenya is **NOT** accurate?
- A. Both the prosecution and defence are not entitled to any information
  - B. Both the prosecution and the defence are allowed to request for limited information from each other during pre-trial
  - C. A party to the litigation may be allowed to introduce exhibits discovered later that were not served to the opposing party during pre-trial
  - D. None of the above
- (1 mark)
26. Which of the following statements concerning judges and juries in common law and civil law jurisdictions is **NOT** accurate?
- A. Inquisitorial judicial processes use juries as fact-finders in all criminal cases
  - B. In a bench trial, in adversarial jurisdictions, the judge can determine both issues of facts and law.
  - C. In adversarial jurisdictions Juries can only determine issues of facts
  - D. None of the above
- (1 mark)
27. In the inquisitorial jurisdiction, which of the following parties may access the full evidentiary record during the examination phase of criminal proceedings?
- A. The judge and the prosecution
  - B. The defence only
  - C. The prosecution only
  - D. None of the above
- (1 mark)
28. Albert Musyoka is the Chief executive officer of ABC CORP. Albert is being prosecuted in Kenya for fraudulent financial reporting. Which of the following is **NOT** a type of real evidence that the prosecution can produce to prove fraudulent financial reporting?
- A. False invoices entered into the books of account to overstate revenue
  - B. An accomplice testimony against the accused person
  - C. Concealed payable invoices
  - D. None of the above
- (1 mark)
29. Which of the following parties may serve as a fact finder in serious criminal proceedings in inquisitorial jurisdictions?
- A. A panel of juries
  - B. A judge
  - C. A panel of both legal and lay judges
  - D. None of the above
- (1 mark)
30. Which of the following statements is **MOST** accurate in regard to admissibility of evidence?
- A. Relevant evidence must be exculpatory
  - B. Evidence of other crimes committed by a defendant is usually admissible to prove that a defendant likely to have committed the alleged offence
  - C. Relevant evidence can be inculpatory or exculpatory
  - D. Relevant evidence must be inculpatory
- (1 mark)

31. Which of the following statements is **NOT** accurate in regard to legal professional privileges?
- A. Legal professional privileges commence after the legal proceedings have begun
  - B. Legal professional privileges commence immediately once litigation is reasonably anticipated
  - C. Legal professional privileges commence immediately once litigation is contemplated
  - D. All the above
- (1 mark)
32. A digital forensic expert seized a computer of a compromised computer system. If the computer forensic expert cannot verify who provided him with the computer's hard drive and who had possession of the computer since it was seized, then questions will be raised regarding which of the following?
- A. The authenticity of the hard drive
  - B. The chain of custody
  - C. The security of the hard drive image
  - D. None of the above
- (1 mark)
33. Which of the following statements is **ACCURATE** in regard to adversarial judicial process?
- A. An expert witness may express opinions or draw conclusions in his testimony during a legal proceeding
  - B. In the common law jurisdictions, expert witnesses cannot testify before the juries
  - C. In common law jurisdictions that use juries, judges most commonly serve as the fact-finders in criminal cases
  - D. None of the above
- (1 mark)
34. In the adversarial jurisdictions, which of the following is generally **NOT** an objective of the defence counsel during the cross-examination of an expert witness?
- A. To ask questions that they already have an answer
  - B. To obtain information about the expert witness's previous contradicting statements to question the witness's honesty and truthfulness
  - C. To diminish the importance of the expert's testimony by showing that the evidence is irrelevant and unreliable
  - D. None of the above
- (1 mark)
35. Which of the following is an example of testimonial direct evidence?
- A. Witness testimony about red flags of fraud
  - B. Expert testimony based on interpretation of the facts
  - C. Testimony that the defendant deposited seven million shillings into his account three days after the money was stolen from his employer
  - D. None of the above
- (1 mark)
36. In systems using adversarial processes, an attorney may impeach an opposing party's witness by attacking either their knowledge of the subject in issue or their credibility. Which of the following is an example of impeachment based on the witness's knowledge?
- A. The expert has a conflict of interest
  - B. The expert is not well trained on the subject matter
  - C. The expert has a disclosed conflict of interest
  - D. None of the above
- (1 mark)
37. In civil litigation in inquisitorial jurisdictions, which of the following is **NOT** correct in regard to evidentiary record?
- A. Evidentiary record is created by the presiding judge
  - B. Evidentiary record is created during the examination phase
  - C. Evidentiary record is discovered by the court during trial
  - D. None of the above
- (1 mark)
38. Which of the following statements is **ACCURATE** in regard to admissibility of relevant evidence in adversarial jurisdictions?
- A. Relevant evidence may be admissible if it is relevant to other related facts
  - B. Relevant evidence may be admissible even if the evidence is prejudicial
  - C. Relevant evidence may be admissible if it is relevant to prove other facts
  - D. None of the above
- (1 mark)

39. Which of the following statements is **NOT** accurate in regard to hearsay evidence?  
A. Hearsay evidence is generally inadmissible  
B. Documents are generally hearsay  
C. Hearsay evidence is not admissible under any circumstances  
D. None of the above (1 mark)
40. In cross-examination of a prosecution expert witness, which of the following is an objective of cross-examination counsel when he asks questions as if he/she is looking for an answer from the expert witness?  
A. Making the expert contradict himself  
B. Making the expert a sounding board by continuously agreeing with the defence counsel's position  
C. Making the expert agree that he did not covered all the areas of the investigation adequately  
D. The purpose of the cross-examination counsel is to create false sense of security (1 mark)
41. Which of the following statements is **ACCURATE** in relation to Anti-fraud professionals' code of ethics, like CFFE Code of Professional Ethics, CFFE's in regard to expert testimony?  
A. The expert can testify to opinion of guilt or innocence  
B. The expert can testify to opinions of the opposing expert witness testimony  
C. The expert cannot testify on technical matters, i.e. violation of accounting standards  
D. All the above (1 mark)
42. In adversarial jurisdictions, for a document to be admitted into evidence, which of the following is **NOT** a requirement?  
A. The document must be real evidence  
B. The document must be properly authenticated  
C. The document must be certified  
D. None of the above (1 mark)
43. Which of the following statements is **ACCURATE** in regard to the duty to preserve information relevant to a case, in the civil law jurisdiction?  
A. The duty arises when the case is filed with the court  
B. The duty arises before pre-trial  
C. The duty arises during pre-trial  
D. None of the above (1 mark)
44. Which of the following statements is **NOT** accurate in regard to prosecution's right to obtain disclosure of information from the defendants in criminal proceedings in adversarial jurisdictions?  
A. The prosecution is entitled to limited disclosures  
B. The prosecution is entitled to the attorney's work product  
C. Both the prosecution and defence are entitled to limited disclosures  
D. None of the above (1 mark)
45. Which of the following statements is **ACCURATE** in regard to waiver of privileges?  
A. Waiver of a legal professional privilege occurs when a client shares privileged information with a third party retained to offer professional advice  
B. Legal professional privileges cannot be extended to a third-party under any circumstances  
C. Legal professional privileges can be extended to a third-party for legal support services  
D. All the above (1 mark)
46. Collins Juma is retained by a court to provide an expert opinion involving specialised knowledge in construction. Which of the following jurisdiction is Collins giving expert testimony?  
A. Adversarial jurisdiction  
B. Civil Justice System  
C. Inquisitorial jurisdiction  
D. None of the above (1 mark)
47. Which of the following is a method of pre-trial civil discovery used in most adversarial jurisdictions?  
A. Summary Judgement  
B. Summons  
C. Direct examination  
D. None of the above (1 mark)

48. Which of the following statements is **ACCURATE** in regard to appointment of expert witnesses in the civil law jurisdiction?
- A. In inquisitorial jurisdictions, the defence cannot appoint an expert witness
  - B. In the civil law jurisdictions, the defence can appoint their expert witnesses
  - C. In the civil law jurisdictions courts, the parties to the litigation appoint their expert witnesses
  - D. None of the above
- (1 mark)
49. Which of the following statements is **ACCURATE** in relation to appellate courts in common legal systems?
- A. In most adversarial jurisdictions, a civil appellate court generally interviews additional fact witnesses and expert witnesses and collects new documentary evidence
  - B. In most common law jurisdictions, a civil appellate court can review issues of facts
  - C. In most common law jurisdictions, a civil appellate court can order for a fresh trial and refer the case to the bench court
  - D. None of the above
- (1 mark)
50. Which of the following **BEST** describes the type of evidence found in the suspect's bank statements of a suspect alleged to be engaging in receiving kickbacks?
- A. Direct evidence
  - B. Real evidence
  - C. Circumstantial evidence
  - D. All the above
- (1 mark)
51. Cross examination, is usually conducted through questions. Which of the following types of questions is the defence counsel likely to ask a prosecution expert witness.?
- A. Closed questions
  - B. Narrative questions
  - C. Leading questions
  - D. Open questions
- (1 mark)
52. In inquisitorial jurisdictions, which of the following **BEST** describes the major role of the advocates of the parties to the litigation in civil litigation?
- A. The advocates cross-examine witnesses
  - B. The prosecution cross examines the defence witness
  - C. The advocates play an advisory role
  - D. None of the above
- (1 mark)
53. Which of the following statements is **NOT** accurate in regard to litigation privileges?
- A. Litigation privileges and other similar evidentiary protections, such as the attorney's work product doctrine, does not protect documents and things that were in existence before litigation was anticipated
  - B. Litigation privileges and other similar evidentiary protections protects materials prepared for litigation
  - C. Litigation privileges protect documents that were in existence before litigation was anticipated
  - D. None of the above
- (1 mark)
54. Defence counsel usually ask complex or confusing questions during cross-examination. Certified Forensic Fraud Examiners must be aware of the type of questions he is likely to ask. Which of the following is a type of questions that a defence counsel is **NOT** likely to ask?
- A. Narrative questions
  - B. Closed questions
  - C. Leading questions
  - D. None of the above
- (1 mark)
55. Which of the following statements is **ACCURATE** in regard to an expert witness?
- A. The Certified Forensic Fraud Examiner (CFFE) credential demonstrates expertise in fraud prevention and investigation, therefore CFFEs are automatically qualified to give testimony in any fraud-related issues
  - B. To testify in court as an expert witness, the witness must have formal training and experience in the subject
  - C. To testify in court as an expert witness, the witness must have personal knowledge of the facts in issue
  - D. None of the above
- (1 mark)

56. Which of the following items should basically be included in the trial record of civil trials in inquisitorial jurisdictions?
- Key documents related to the facts in issue
  - A word-for-word transcript of all oral testimony
  - All information provided by witnesses
  - None of the above
- (1 mark)
57. Which of the following statements is **ACCURATE** in regard to testimonial evidence in a court of law in Kenya?
- A fraud investigator can provide oral direct evidence based on evidence collected during investigations
  - An auditor who detects a fraudulent scheme in the course of a routine audit can be called to testify in to offer oral direct evidence
  - A witness called in court to provide a document can offer oral direct evidence
  - None of the above
- (1 mark)
58. Which of the following statements is **NOT** accurate in regard to admission of evidence under the evidence Act Cap 80 in relation to a fraud case?
- If a defendant admits in civil proceedings the facts need not be proved
  - If a criminal defendant made a confession incriminating himself, such confessions are generally not admissible
  - Admissions by a criminal defendant can be admissible if they are made before a judge, magistrate or a police officer in the rank of a chief inspector
  - Admission by a defendant in civil proceedings is not admissible
- (1 mark)
59. Which of the following statements is **NOT** accurate in regard to witnesses under the Kenyan Evidence Act?
- A witness called to produce a document is not a court witness
  - A witness called to produce a document is not a court witness therefore cannot be cross examined
  - A person called to produce a document is a court witness, and can be cross-examined
  - None of the above
- (1 mark)
60. Which of the following statements is **NOT** accurate in regard to exhibits?
- All documents related to facts in issue are not exhibits
  - Exhibits are form of real evidence
  - Demonstrative evidence is not is not an exhibit
  - None of the above
- (1 mark)
61. In a common law jurisdiction like Kenya, which of the following is **NOT** a reason that counsel can use to impeach a lay/eye witness opposing party's witness?
- The lay witness does not have personal knowledge of the facts in issue
  - The lay witness has a conflict of interest
  - The witness has previously shown lack of integrity
  - None of the above
- (1 mark)
62. Which of the following statements is **NOT** accurate in regard to how a witness should conduct himself in a court of law while giving testimony?
- Argue with the defence counsel if the examining counsel behave in an outrageous manner
  - Ignore the counsel's unfair practice and answer questions unless otherwise directed by the court
  - The witness should wait for the counsel to object to the counsel's behavior
  - None of the above
- (1 mark)
63. Which of the following statements is **NOT** accurate in regard to communication between an attorney and his client?
- The client and advocate should keep the communications confidential
  - The purpose of the communications was to seek legal professional services
  - The advocate and client communication cannot be communicated to a third party
  - All the above
- (1 mark)
64. Which of the following is **NOT** accurate in regard to a trial phase in a civil trial in adversarial jurisdictions?
- The pre conference Phase
  - The trial phase
  - Judgement
  - Sentencing
- (1 mark)

65. In a criminal trial involving allegations of money laundering, the prosecution introduces a visual aid to illustrate relationship of transactions with several degrees of separation. Which of the following **BEST** describe the visual form of evidence?
- A. Direct evidence
  - B. Documentary evidence
  - C. Real evidence
  - D. Demonstrative evidence
- (1 mark)
66. During cross-examinations, counsel uses several techniques. Which of the following terms **BEST** describes the advocate's technique for getting the expert witness to agree to a large amount of time being spent in one area of the investigation, only for the questioning to be on an area that the investigator did not cover, so as to show that the investigator's work was limited in scope?
- A. Contradiction
  - B. False sense of security
  - C. Sounding board
  - D. None of the above
- (1 mark)
67. Which of the following statements is **ACCURATE** in regard to expert witnesses in adversarial jurisdictions?
- A. An opposing expert witness cannot testify about the opinions of another expert
  - B. Expert witness can only be appointed by the Court
  - C. Expert witnesses can be appointed by the Court to give an opinion different from that reached by an equally credible expert called by the parties to the litigation
  - D. None of the above
- (1 mark)
68. Which of the following statements is **ACCURATE** in regard to juries in legal trial process in the adversarial jurisdictions in civil and criminal trials?
- A. In civil trials in some common law jurisdictions, the jury verdict must be unanimous
  - B. In criminal trials in common law jurisdictions, the jury verdict must be supported by the majority
  - C. Common law jurisdictions that use juries does not use juries in civil trials
  - D. None of the above
- (1 mark)
69. A fraud examiner in his fraud investigation report stated that, he found that ten million shillings have been embezzled. The facts to support the same was that he found that the day the money was withdrawn from the account, a few days later the same amount of money was deposited in the defendant's account. Which of the following **BEST** describes the evidence stated in the forensic audit report?
- A. Demonstrative evidence
  - B. Real evidence
  - C. Circumstantial evidence
  - D. None of the above
- (1 mark)
70. Which of the following statements is **NOT** accurate in regard to civil trial process in Kenya?
- A. The plaintiff counsel conduct examination in- chief of their witness
  - B. The defendant counsel cross examines the plaintiff witness
  - C. The prosecution counsel can re-examine the plaintiff witness on matters raised during cross examination
  - D. None of the above
- (1 mark)
71. Which of the following statements is **NOT** accurate in regard to the admissibility of evidence in adversarial jurisdiction?
- A. The purpose of authentication requirement in most common law systems is to ensure that the document is not forgery
  - B. The reason for not including hearsay evidence in common law jurisdictions is because hearsay evidence is not reliable
  - C. Character evidence is inadmissible as evidence because it not relevant to the facts in issue
  - D. None of the above
- (1 mark)
72. Adversarial jurisdictions allow parties to conduct a sworn testimony given by a party or witness upon questioning by counsel for one of the parties during pre-trial. Which of the following **BEST** describes the type of examination?
- A. Cross-examination
  - B. Re-examination
  - C. Direct examination
  - D. None of the above
- (1 mark)

73. Which of the following statements, in regard to burden of proof in civil trial is **ACCURATE**?
- A. In adversarial jurisdictions the burden of proof is with the plaintiff
  - B. In the common law jurisdictions, the burden of proof is with the prosecution
  - C. In inquisitorial jurisdictions the burden of proof is with the plaintiff
  - D. None of the above
- (1 mark)
74. Which of the following statements is **NOT** accurate in regard to defendant's testimony in both the inquisitorial and adversarial jurisdictions?
- A. In inquisitorial judicial processes, criminal defendants are generally required to provide testimony, if so directed by the court
  - B. In inquisitorial judicial processes, criminal defendants have a right to remain silent
  - C. In adversarial judicial processes, criminal defendants have a right to remain silent
  - D. None of the above
- (1 mark)
75. Which of the following statements is **NOT** accurate in regard to civil trial court of appeal in the adversarial jurisdiction?
- A. The appellate court can review only issues of law
  - B. Only the losing party in a civil trial may appeal
  - C. The appellate court cannot review issues of evidence
  - D. None of the above
- (1 mark)
76. Which of the following statements is **NOT** accurate in regard to testimonial and documentary evidence in the adversarial jurisdictions?
- A. Common law jurisdictions favor documentary evidence over testimonial evidence
  - B. Adversarial jurisdiction favor testimonial evidence over documentary evidence because they do not preside over the collection and analysis of the documentary evidence
  - C. Common law jurisdiction does not admit hearsay documentary evidence
  - D. None of the above
- (1 mark)
77. Under the Kenyan Evidence Act, Which of the following statements is **NOT** accurate?
- A. Oral direct evidence can only be given by an expert witness who has expertise on the facts in issue
  - B. Oral direct evidence can only be given by a witness with firsthand information of the facts in issue
  - C. Oral direct evidence is a type of testimonial evidence
  - D. All the above
- (1 mark)
78. Which of the following statements is **NOT** accurate in regard to cross-examination?
- A. During cross-examinations in adversarial systems, it is a general rule of the opposing counsel to cross-examine an expert witness by asking questions that will support the prosecution
  - B. During cross-examinations in adversarial jurisdictions, it is a general rule for opposing counsel to cross-examine an expert witness by asking questions that will support the defence
  - C. In inquisitorial jurisdictions, the defense counsel is allowed to cross examine court appointed expert witness
  - D. None of the above
- (1 mark)
79. Which of the following statements in regard to evidence in criminal trials is **NOT** accurate?
- A. Physical documents must be authenticated as a requirement for admission to evidence
  - B. Adversarial jurisdictions tend to have more stringent requirements for admissibility of evidence than the civil law jurisdictions
  - C. The objective of restrictions on admissibility of evidence is to ensure that the defendant and prosecution gets a fair hearing
  - D. None of the above
- (1 mark)
80. Which of the following statements is **NOT** accurate?
- A. In the civil law jurisdiction, one party cannot object to another person offer of evidence
  - B. Evidence can be inadmissible even if it is relevant and reliable
  - C. In the common law legal system relevant evidence to prove other facts in issue will be inadmissible to prove facts in issue being litigated
  - D. None of the above
- (1 mark)

81. Which of the following statements is **ACCURATE** in regard to the standard of proof in a criminal trial in Kenya?
- A. The evidence must pass the test of reasonable doubt
  - B. Evidence presented must be on balance of probability
  - C. Standard of proof is the inner conviction of the judge
  - D. None of the above
- (1 mark)
82. In the adversarial jurisdictions, relevance and admissibility are basic principles of evidence. Which of the following evidence is admissible?
- A. Real evidence that is not authenticated
  - B. Evidence for another similar cases committed by the criminal defendant
  - C. Evidence by a person who received the information from another party
  - D. None of the above
- (1 mark)
83. Which of the following scenarios would **NOT** result to waiver of a client's legal professional privilege over confidential communications with his attorney?
- A. The client's counsel shares privileged communications with a fraud expert for technical assistance
  - B. The client intentionally shares privileged communications with an unrelated third party who has no legitimate interest in the matter
  - C. The client accidentally forwards an email with privileged information to unrelated third parties who have no need to know the information
  - D. All of the above
- (1 mark)
84. Which of the following statements is **NOT** accurate in regard to expert witnesses in civil law jurisdictions?
- A. In inquisitorial jurisdiction the court appoints the primary expert witness
  - B. In inquisitorial jurisdiction the parties to the litigation cannot appoint their own expert witnesses
  - C. In inquisitorial jurisdiction the presiding judge presents the evidence for both sides before the trial judge
  - D. All the above
- (1 mark)
85. Which of the following statements is **NOT** accurate in regard to admissibility of evidence?
- A. The objective of the restriction of admissibility of evidence is to ensure that the defendant gets a fair trial
  - B. The objective of the restriction of admissibility of evidence is to ensure that the prosecution gets a fair trial
  - C. If the judge sustains an objection, then the evidence will be inadmissible
  - D. None of the above
- (1 mark)
86. Caleb Lenok is a lead suspect in an ongoing civil investigation in an adversarial jurisdiction that will likely end up in litigation. Caleb shredded the original documents that were relevant to the facts in issue. The documents were due for destruction. Which of the following statements is **ACCURATE**?
- A. Caleb violated his duty to preserve relevant information because he destroyed evidence relevant to a reasonably anticipated litigation
  - B. Caleb did not violate his duty to preserve relevant information because the court had not advised on which documents should be preserved and at what point
  - C. Caleb did not violate his duty to preserve relevant information because the court proceedings had not commenced
  - D. None of the above
- (1 mark)
87. Which of the following statements is **NOT** accurate in regard to evidence under the Kenya Evidence Act (CAP 80)?
- A. The evidence act shall apply to all judicial proceedings in or before any court
  - B. The evidence act shall not apply to the Kadhi's court
  - C. The evidence act shall not apply to arbitration and tribunals
  - D. None of the above
- (1 mark)
88. Which of the following statements under the evidence Act is **NOT** accurate?
- A. Confession by a suspect is generally inadmissible
  - B. Confession by a suspect will not be admissible if it is made before any investigator
  - C. Confession by a co-accused implicating himself is admissible as evidence against the accused
  - D. None of the above
- (1 mark)

89. Which of the following statements is **ACCURATE** in regard to evidence in a fraud case?
- A. Most of the fraud cases can be proven by direct evidence
  - B. A person who has personal knowledge of a fraudulent transaction and is not a beneficiary of the offence cannot be a good fact witness to give oral direct evidence
  - C. An accomplice cannot be a good fact witness to provide oral direct evidence
  - D. None of the above
- (1 mark)
90. Which of the following questions **BEST** describe a leading question, that the prosecution counsel might ask an expert witness during examination in chief?
- A. "How did you know that the suspect committed the offence?"
  - B. "You did find direct evidence implicating the defendant, is that true?"
  - C. "Could you please explain how the books of account were manipulated?"
  - D. None of the above
- (1 mark)
91. Which of the following statements is **NOT** accurate in regard to examination in chief and re-examination court processes?
- A. Examination in chief court process is non-confrontational questioning that aims at exposing the facts of the case with the court
  - B. Re-examination court process is non-confrontational questioning that aims at exposing the facts of the case with the court
  - C. Re-examination court process is confrontational questioning that is conducted by defence counsel
  - D. None of the above
- (1 mark)
92. Which of the following statements is **NOT** accurate in regard to questions that cross examination counsel can ask during cross examination?
- A. Unlike the prosecution counsel, the defence counsel can ask leading question during cross examination
  - B. Unlike the defence, the prosecution counsel is not allowed to ask leading question during direct examination
  - C. Defence counsel will ask the prosecution expert witness technical questions to seeks answers
  - D. None of the above
- (1 mark)
93. Which of the following statements is **NOT** accurate in regard to examination in chief?
- A. During examination in – chief, the prosecutor is not allowed to ask the prosecution witness open ended questions
  - B. During examination in – chief the prosecutor is not allowed to ask the prosecution witness leading questions
  - C. During examination in – chief the prosecutor is allowed to ask the prosecution witness narrative questions
  - D. None of the above
- (1 mark)
94. Hearsay evidence is generally not admissible in the adversarial jurisdictions like Kenya. However, there are exceptions to the hearsay rule. Which of the following is **NOT** an example of the exemption of the hearsay rule?
- A. Former testimony related to the fact in issue
  - B. Public records
  - C. Business records
  - D. None of the above
- (1 mark)
95. Documents are generally considered as hearsay. Which of the following is **NOT** a hearsay document?
- A. A data analysis report
  - B. Bank reconciliation statement
  - C. Management accounts
  - D. An Invoice
- (1 mark)
96. In the common law jurisdictions, evidence can be excluded because of lack of reliability. Which of the following is a rule of admissibility of evidence related to reliability?
- A. Rule of authentication
  - B. Rule against character evidence
  - C. The best rule evidence
  - D. None of the above
- (1 mark)

97. In adversarial jurisdictions like Kenya, documentary evidence can be excluded because of lack of chain of custody. Which of the following is a rule related to admissibility of documentary evidence?
- A. Rule against hearsay
  - B. Rule against character evidence
  - C. The best rule evidence
  - D. The rule of authentication
- (1 mark)
98. Which of the following statements is **NOT** accurate in regard to admissibility of electronic evidence under the Kenya Evidence Act?
- A. In any legal proceedings, electronic messages and digital materials will be admissible as evidence
  - B. Just like tangible evidence, electronic evidence is required to be authenticated to be admissible as evidence
  - C. Electronic evidence must be relevant to the manner in which the electronic digital evidence was generated, stored and communicated
  - D. None of the above
- (1 mark)
99. Which of the following statements is **NOT** accurate in regard to admissibility of character evidence in Kenyan courts?
- A. In criminal trials in Kenya jurisdiction, a character witnesses may testify about the defendant's general good character
  - B. In criminal trials in Kenya jurisdictions, character witnesses may testify about the defendant's bad character
  - C. In criminal trials in Kenya jurisdictions, character witnesses may not testify about the defendant's good character based on specifics
  - D. In criminal trials in Kenya jurisdictions, character witnesses may not testify about the defendant's bad character
- (1 mark)
100. Which of the following statements is **NOT** accurate in regard to admissibility of electronic evidence under the Kenya Evidence Act?
- A. In legal proceedings, electronic messages and digital materials will not be admissible as evidence
  - B. Electronic evidence must be authenticated to be admissible in court
  - C. Electronic evidence must be in its original form to be admissible
  - D. None of the above
- (1 mark)

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**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 26 April 2023. Afternoon Paper.**

**Time Allowed: 3 hours.**

**Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. This paper is made up of one hundred (100) Multiple Choice Questions. Each question is allocated one (1) mark.**

1. Which of the following statements is **NOT** accurate in regard to an expert witness, in a fraud civil litigation, in the Kenyan jurisdiction?
  - A. The plaintiff and the defendant retain their own expert witnesses to assist the court in interpreting the technical facts of the issues in fact to support the side of their case
  - B. The expert witnesses owe a duty to the court during the civil trial judicial proceedings
  - C. The expert witnesses owe a duty to the parties that retained them, for purposes of civil trial judicial proceedings
  - D. None of the above
  
2. Which of the following statement is **CORRECT** in regard to prosecution of fraud cases?
  - A. A fraud case can be prosecuted as a civil or a criminal case
  - B. A fraud case can be prosecuted as civil and criminal case concurrently
  - C. Fraud is a criminal offence, and therefore can only be prosecuted as a criminal case by the prosecution and not private parties
  - D. The main objective of the prosecution in fraud criminal judicial proceedings is for the perpetrator to be punished if found guilty
  
3. Which of the following statements is **ACCURATE** with regard to documentary evidence?
  - A. All documents related to the facts in issue are admissible as real evidence
  - B. Documents like financial statements are hearsay evidence, and cannot be introduced as an exhibit to prove fraudulent financial reporting
  - C. An affidavit, is not a hearsay evidence, because it is prepared by an advocate under oath
  - D. Bank statements of a suspect accused of bribery, that show that the suspect deposited substantial amounts of money in his account just around the same time of the alleged bribery, can be introduced as an exhibit to prove bribery
  
4. Which of the following statements is **NOT** accurate in regard to which documents can be introduced in court as exhibits to prove a fraud case?
  - A. Documents that can be introduced as exhibits, to prove a fraud case are those that were in existence before litigation was anticipated
  - B. Documents that can be introduced as exhibits, to prove a fraud case are those that were in the commission of the offence
  - C. Documents that can be introduced as exhibits, to prove a fraud case are only those that were prepared as part of business transaction
  - D. Documents that can be introduced as exhibits , to prove a fraud case are those prepared for purposes of court proceedings
  
5. Which of the following statements is **NOT** accurate in regard to evidence?
  - A. Most adversarial jurisdictions like Kenya have a separate law of evidence
  - B. Civil law legal systems do not have separate law of evidence
  - C. The law of evidence governs the admissibility of evidence in legal proceedings
  - D. The admissibility of evidence highly depends on the trial judge

6. Bob, a fraud suspect, enters into a plea agreement with the prosecution. Which of the following statements is **ACCURATE** in regard to evidence?
- Bob's guilty plea can be entered as evidence
  - Bob's guilty plea cannot be entered as evidence
  - Bob's guilty plea is direct testimonial evidence
  - None of the above
7. Which of the following statement is **ACCURATE** in regard to testimonial evidence in Kenya?
- There are only two types of testimonial evidence, which are, oral direct testimony and expert witness testimony
  - A corroborative witness gives expert testimony
  - There are several types of oral direct evidence
  - There are several types of expert testimony
8. In Kenya, expert witnesses are allowed to draw conclusions and express opinions. Which of the following is **ACCURATE** in regard to expert opinion testimony?
- An expert's opinion is a real evidence
  - The expert's opinion must be based on advanced training on the facts in issue
  - The expert witness must have direct personal knowledge of the facts in issue
  - None of the above
9. Carlo, a fraud suspect, in the inquisitorial jurisdiction provided a written confession statement in a fraud case. Which of the following statement is **MOST** accurate in relation to prosecution evidence ?
- Carlo's confession is real evidence
  - Carlo's confession is direct evidence
  - Carlo's confession is a guilt plea
  - None of the above
10. Which of the following statements in regard to questioning of an expert in Kenyan courts is **ACCURATE**?
- The questioning of the expert witness is conducted by the judge
  - The questioning of the expert witness is conducted by the defence counsel only
  - The questioning of the expert witnesses is conducted by the prosecution and defence counsel
  - All the above
11. Which of the following is **ACCURATE** in regard to an eye witness testimony?
- The eye witness testimony opinion must be prejudicial.
  - The eye witness testimony opinion must be based on specialized knowledge.
  - The eye witness testimony can be based on information provided by another person who has personal knowledge of the facts in issue.
  - None of the above
12. Which of the following statements concerning criminal bargaining agreements is **ACCURATE**?
- Bargaining agreement has experienced a lot of opposition in the common law jurisdictions in the recent years
  - Bargaining agreement is practiced more in the inquisitorial jurisdictions than in the adversarial jurisdictions
  - Bargaining agreement is not an efficient method of disposing criminal cases.
  - None of the above
13. Which of the following statement is **NOT** accurate in regard to the expert witness report or statement?
- The expert witness report is not protected by professional legal privileges
  - The expert witness report should include the qualification of the expert witness and basis of his/her conclusion
  - An expert witness report or statement is a written testimonial evidence
  - None of the above
14. Which of the following is **NOT** one of the three stages of a criminal proceeding in an inquisitorial jurisdiction?
- The investigative phase
  - The trial phase
  - The examination phase
  - None of the above

15. Which of the following is **NOT** one of the three stages of a civil proceeding in Kenya and other adversarial jurisdictions?
- A. The pre trial phase
  - B. Trial
  - C. Sentencing
  - D. None of the above
16. Which of the following statements is **NOT** accurate in regard to an expert witness and the trial process in the Kenyan jurisdiction?
- A. The examination- in chief of the trial process is conducted by the parties to the litigation
  - B. The cross-examination can be conducted by both the prosecution and defence counsels
  - C. The examination- in chief of the trial process is conducted by the judge
  - D. All the above
17. Which of the following statements is **NOT** accurate in regard to adversarial and inquisitorial jurisdictions in relation to cross-examination?
- A. Both the adversarial and inquisitorial jurisdictions feature cross - examination
  - B. Only the adversarial jurisdictions feature cross-examination
  - C. In most inquisitorial jurisdictions, the defence witness can question the court appointed expert
  - D. None of the above
18. In inquisitorial jurisdictions, which of the following parties may access the full evidentiary record prior to the trial phase of a criminal proceeding?
- A. The judge and the prosecution only
  - B. The prosecution only
  - C. The defence
  - D. None of the above
19. Andrew is being prosecuted for corruption and abuse of office in Kenya. In his defence, Andrew calls a witness to testify to his good character. Which of the following statement is **ACCURATE** in regard to the defendant's defence?
- A. Andrew's witness testimony of good character is a direct testimonial evidence
  - B. Andrew's witness testimony of good character is circumstantial evidence
  - C. Andrew's witness testimony of good character is a real evidence
  - D. None of the above
20. Which of the following is an exhibit in a fraud case?
- A. Fraudulent invoice that was used to demand payment from the organization
  - B. Fraudulent financial statements
  - C. An analysis of receipts against bank deposits
  - D. All the above
21. Which of the following statements is **NOT** accurate in regard to expert testimony in Kenya and other adversarial judicial proceedings?
- A. Expert testimony, is a direct oral evidence based on personal knowledge
  - B. Expert testimony involves interpreting the technical matters related to the facts in issue
  - C. Expert testimony assists the judge or jury determine evidence of technical facts in issue
  - D. All the above
22. Which of the following statements is **ACCURATE** in regard to impeaching an expert witness on claims of conflict of interest.
- A. The expert witness was a high school classmate of the suspect therefore he would have a conflict of interest
  - B. The testifying expert was at university with the client, the same year and used to meet regularly during sports activities, therefore he would have a conflict of interest
  - C. The testifying expert was handsomely compensated by the client for his services, therefore he would have a conflict of interest
  - D. None of the above

23. In common law jurisdictions like Kenya, which of the following is **NOT** a question that must be asked to determine whether an expert may testify in court?
- A. Does the expert have the required experience in the facts at issue?
  - B. Is the testimony based from reliable sources?
  - C. Is the testimony relevant to the facts of the case?
  - D. None of the above
24. Which of the following **BEST** describes the standard of proof for civil trials in Kenya jurisdictions?
- A. Balance of probability
  - B. Beyond reasonable doubt
  - C. The inner conviction of the judge
  - D. Preponderance of evidence
25. Which of the following statements concerning the criminal discovery process in adversarial jurisdictions like Kenya is **ACCURATE**?
- A. Only the defence may request information from the defendant, but the defendant is not allowed to request for information
  - B. Only the prosecution and the defence are allowed to request for limited information from each other
  - C. A party to the litigation may be allowed to introduce exhibits that were not served to the opposing party before trial
  - D. None of the above
26. Which of the following statements concerning judges and juries is **ACCURATE**?
- A. Inquisitorial judicial processes use juries as fact-finders only in serious criminal cases
  - B. In a bench trial, in adversarial jurisdictions, the judge can determine both issues of facts and law.
  - C. In adversarial jurisdictions Juries can determine issues of facts and law
  - D. None of the above
27. In the inquisitorial jurisdiction, which of the following parties may access the full evidentiary record before the trial phase of criminal proceedings?
- A. The judge and the prosecution
  - B. The defence only
  - C. Both the prosecution and the defense
  - D. The prosecution only
28. Jones is being prosecuted in Kenya for fraudulent financial reporting. Which of the following is **NOT** a type of direct evidence that the prosecution can produce to prove fraudulent financial reporting?
- A. False invoices entered into the books of account to overstate revenue
  - B. An accomplice testimony against the accused person
  - C. An eye witness who can provide oral direct evidence based on personal knowledge of the facts in issue
  - D. None of the above
29. Which of the following parties may **NOT** serve as fact finders in criminal proceedings in inquisitorial jurisdictions?
- A. A panel of juries
  - B. A judge
  - C. A panel of both legal and lay judges
  - D. None of the above
30. Which of the following statements is **MOST** accurate in regard to admissibility of evidence?
- A. Relevant evidence is evidence that tends to prove the facts in issue
  - B. Evidence of other crimes committed by a defendant is usually admissible to prove that a defendant likely to have committed the alleged offence
  - C. Under the Evidence Act relevant evidence of other similar cases are admissible as evidence
  - D. Relevant evidence is evidence that tends to prove or disapprove the facts in issue

31. Blackie, a Certified Fraud Examiner, is testifying in court as an expert witness in an adversarial jurisdiction. During cross-examination, opposing counsel invades Blackie's body space. What should Blackie do?
- A. Ignore the counsel's behavior
  - B. Continue answering question
  - C. Ask the judge to intervene
  - D. All the above
32. A digital forensic expert seized a computer of a compromised computer system. If the computer forensic expert cannot verify who provided him with the computer's hard drive and who has had possession of the computer since it was seized, then questions will be raised regarding which of the following?
- A. The hard drive's security
  - B. The data protection policy
  - C. The security of the hard drive image.
  - D. None of the above
33. Which of the following statements is **ACCURATE** in regard to the adversarial judicial process?
- A. An expert witness may not express opinions or draw conclusions in his testimony during a legal proceeding
  - B. In the common law jurisdictions, expert witnesses cannot testify before the juries
  - C. In common law jurisdictions that use juries, judges most commonly serve as the fact-finders in criminal cases
  - D. None of the above
34. In common law legal systems, which of the following is generally **NOT** an objective of opposing counsel during the cross-examination of an expert witness?
- A. To ask questions that they already have answers to
  - B. To obtain information about the expert witness's previous contradicting statements to question the witness's honesty and truthfulness
  - C. To expose the expert's credibility as an expert witness
  - D. To diminish the importance of the expert's testimony by showing that the evidence is irrelevant and unreliable
35. Which of the following is an example of direct evidence?
- A. Witness testimony about risks of fraud
  - B. Expert testimony based on interpretation of the facts
  - C. An accomplices's testimony against the accused
  - D. Testimony that the defendant deposited seven million shillings into his account three days after the money was stolen from his employer
36. In systems using adversarial process, an attorney may impeach an opposing party's witness by attacking either their knowledge of the subject at issue or their credibility. Which of the following is an example of an impeachment based on the witness's credibility?
- A. The expert has a conflict of interest
  - B. The expert is not well trained on the subject matter
  - C. The expert has a disclosed conflict of interest
  - D. All the above
37. In civil litigation in civil law jurisdictions, which of the following is **NOT** correct in regard to evidentiary record?
- A. Evidentiary record is created by the trial judge
  - B. Evidentiary record is created during the examination phase
  - C. Evidentiary record is created during the investigation phase
  - D. All the above
38. Which of the following statements is **ACCURATE** in regard to admissibility of relevant evidence in adversarial jurisdictions?
- A. Relevant evidence may be excluded if it is not relevant to the facts in issue
  - B. Relevant evidence may be admissible even if the evidence is prejudicial
  - C. Relevant evidence may be admissible even if it is confusing and time consuming
  - D. Relevant evidence may be admissible if it is relevant to prove other facts

39. Which of the following statements is **NOT** accurate in regard to hearsay evidence?
- A. A photograph can be either demonstrative evidence or an exhibit
  - B. Hearsay evidence is generally inadmissible
  - C. Documents are generally hearsay
  - D. Hearsay evidence is not admissible under any circumstances
40. In cross-examination of a prosecution expert witness, which of the following is an objective of a cross-examination counsel when he asks questions as if he/she is looking for an answer from the expert witness.
- A. Making the expert contradict himself
  - B. Making the expert a sounding board by continuously agreeing with the defence counsel's position
  - C. Making the expert agree that he did not covered all the areas of the investigation adequately
  - D. None of the above
41. Which of the following statements is **ACCURATE** in relation to Anti-fraud professionals' code of ethics, like ACFE Code of Professional Ethics, CFEs in regard to expert testimony?
- A. The expert can testify to opinion of guilt or innocence
  - B. The expert can testify to opinions of the opposing expert witness testimony
  - C. The expert cannot testify on technical matters, i.e. violation of accounting standards
  - D. All the above
42. In adversarial jurisdictions, for a document to be admitted into evidence, it must meet which of the following requirements?
- A. The document must meet the requirements of the best evidence
  - B. The document must meet the requirements of the rule of authentication
  - C. The document must be properly authenticated
  - D. None of the above
43. Which of the following statements is **ACCURATE** in regard to duty to preserve information relevant to a case, in the civil law jurisdiction?
- A. The duty arises when the case is filed with the court
  - B. The duty arises when litigation is reasonably anticipated or contemplated
  - C. The duty arises when litigation starts
  - D. None of the above
44. Which of the following statements is **NOT** accurate in regard to prosecution's right to obtain disclosure of information from the defendants in criminal proceedings in adversarial jurisdictions?
- A. The prosecution is typically entitled to more disclosures from the defendant in criminal case than in civil litigation
  - B. The prosecution is entitled to limited disclosures
  - C. The prosecution is not entitled to the attorney's work product
  - D. None of the above
45. Which of the following statement is **ACCURATE** in regard to waiver of privileges?
- A. Waiver of a legal professional privilege occurs when a client shares privileged information with a third party retained to offer professional advise
  - B. Legal professional privileges cannot be extended to a third-party under any circumstances
  - C. Legal professional privileges can be extended to a third-party for consulting purposes
  - D. All the above
46. Janet is retained by a court to provide an expert opinion involving specialized knowledge in construction. Which of the following jurisdiction is Janet giving expert testimony?
- A. Adversarial jurisdiction
  - B. Civil Justice System
  - C. Common law legal system
  - D. None of the above
47. Which of the following is a method of pre-trial civil discovery used in most adversarial jurisdictions?
- A. Summary Judgement
  - B. Summons
  - C. Pre-trial oral or written examinations
  - D. None of the above

48. Which of the following statements is **NOT** accurate in regard to appointment of expert witnesses in the civil law jurisdiction?
- A. In the civil law jurisdictions the parties to the litigation cannot appoint an expert witness
  - B. In the civil law jurisdictions the parties to the litigation can appoint their expert witnesses
  - C. In the civil law jurisdictions courts appoint the primary expert witness
  - D. All the above
49. Which of the following statements is **ACCURATE** in relation to appellate courts in common legal systems?
- A. In most common law jurisdictions, a civil appellate court generally interviews additional fact witnesses and expert witnesses and collects new documentary evidence
  - B. In most common law jurisdictions, a civil appellate court can review issues of facts
  - C. In most common law jurisdictions, a civil appellate court can order for a fresh trial and conduct the trial itself
  - D. None of the above
50. Which of the following **BEST** describes the type of evidence found in the bank statements of a suspect alleged to be engaging in receiving kickbacks?
- A. Direct evidence
  - B. Documentary evidence
  - C. C evidence
  - D. None of the above
51. Cross examination, is usually conducted through questions. Which of the following types of questions is the defense counsel likely to ask an expert witness?
- A. Closed questions
  - B. Narrative question
  - C. Leading question
  - D. None of the above
52. In civil law jurisdictions, which of the following **BEST** describes the major role of the advocates of the parties to the litigation during civil litigation?
- A. The advocates cross-examine witnesses
  - B. The prosecution cross examine the defence witness
  - C. The defence counsel cross examine the prosecution witness
  - D. None of the above
53. Which of the following statements is **NOT accurate** in regard to litigation privileges?
- A. Litigation privileges and other similar evidentiary protections, such as the attorney's work product doctrine, apply even to documents and things that were in existence before litigation was anticipated
  - B. Litigation privileges and other similar evidentiary protections does not protect documents that were in existence before litigation was anticipated
  - C. Affidavits are not protected by litigation privileges
  - D. None of the above
54. Defence counsel usually ask complex or confusing questions during cross-examination. Certified Fraud Examiners must be aware of the type of questions he is likely to ask. Which of the following is a type of question that a defence counsel is **NOT** likely to ask?
- A. Open ended questions
  - B. Closed questions
  - C. Leading questions
  - D. None of the above
55. Which of the following statements is **ACCURATE** in regard to expert witness?
- A. The Certified Forensic Fraud Examiner (CFFE) credential demonstrates expertise in fraud prevention and investigation, therefore CFFEs are automatically qualified to give testimony in any fraud-related issues
  - B. To testify in court as an expert witness, the witness must have formal training and experience in the subject
  - C. To testify in court as an expert witness, the witness must have personal knowledge of the facts in issue
  - D. None of the above

56. Which of the following items should basically be included in the trial record of civil trials in inquisitorial jurisdictions?
- A. All documents related to the facts in issue
  - B. A word-for-word transcript of all oral testimony
  - C. All information provided by witnesses
  - D. None of the above
57. Which of the following statements is **ACCURATE** in regard to testimonial evidence in a court of law in Kenya?
- A. A forensic auditor can provide oral direct evidence based on evidence collected during investigations
  - B. An auditor who detects a fraudulent scheme in the course of a routine audit can be called to testify in a court of law to offer oral direct evidence.
  - C. A witness can be called in a court of law to provide a document and can offer oral direct evidence
  - D. None of the above
58. Which of the following statements is **NOT** accurate in regard to admission of evidence under the Evidence Act Cap 80 of the Laws of Kenya in relation to a fraud case?
- A. If a defendant admits in civil proceedings the facts need not be proved
  - B. If a criminal defendant made a confession incriminating himself, such confessions are generally not admissible
  - C. Admissions by a criminal defendant can be admissible if they are made before a judge, magistrate or a police officer in the rank of a chief inspector
  - D. Admission by a defendant in civil proceedings is not admissible
59. Which of the following statements is **NOT** accurate in regard to witnesses under the Kenyan Evidence Act?
- A. A witness shall not be excused from answering questions related to the facts in issue
  - B. A witness called to produce a document is not a court witness, and cannot be cross-examined
  - C. A person called to produce a document is a witness, and can be cross-examined
  - D. All the above
60. Which of the following statement is **NOT** correct in regard to exhibits?
- A. All documents related to facts in issue are not exhibits
  - B. Exhibits are form of real evidence
  - C. Demonstrative evidence is not additional evidence
  - D. None of the above
61. In a common law jurisdiction like Kenya, which of the following is **NOT** a reason that counsel can use to impeach an opposing party's witness?
- A. The lay witness does not have personal knowledge of the facts in issue
  - B. The witness has previously shown lack of integrity
  - C. The witness has made contradicting statements
  - D. None of the above
62. Which of the following statements is **NOT** correct in regard to how a witness should conduct himself in a court of law while giving testimony?
- A. Ask the judge to intervene, if the examining counsel behave in an outrageous manner
  - B. Ignore the counsel's unfair practice and answer questions unless otherwise directed by the court
  - C. The witness should wait for the counsel to object to the counsel's behaviour
  - D. None of the above
63. Which of the following statements is **NOT** accurate in regard to communication between an advocate and his client?
- A. The client and advocate should keep the communication confidential
  - B. The purpose of the communication was to seek legal professional services
  - C. The advocate and client communication cannot be communicated to a third party under any circumstances.
  - D. None of the above

64. Which of the following statements is **NOT** correct in regard to the trial phases for a civil trial in Kenya?
- The Pre conference Phase
  - The trial phase
  - Judgement
  - Sentencing
65. In a criminal trial involving allegations of money laundering, the prosecution introduces a visual aid to illustrate relationship of transactions with several degrees of separation. Which of the following **BEST** describe the visual form of evidence?
- Direct evidence
  - Documentary evidence
  - Real evidence
  - None of the above
66. During cross-examination counsel uses several techniques. Which of the following terms **BEST** describes the advocate's technique for getting the expert witness to agree to a large amount of time being spent in one area of the investigation, only for the questioning to be on an area that the investigator did not cover, so as to show that the investigator's work was limited in scope?
- Myopic vision
  - False sense of security
  - Sounding board
  - None of the above
67. Which of the following statement is **ACCURATE** in regard to expert witnesses in adversarial jurisdictions
- An opposing expert witness cannot testify about the opinions of the other expert
  - Expert witness can only be appointed by the court.
  - Expert witnesses cannot be appointed by the court to give an opinion different from that reached by an equally credible expert called by the parties to the litigation
  - None of the above
68. Which of the following statements is **ACCURATE** in regard to juries in legal trial process in the common law jurisdiction
- In civil trials in some common law jurisdictions, the jury verdict must be unanimous
  - In criminal trials in common law jurisdictions, the jury verdict must be supported by the majority
  - Common law jurisdictions that use juries does not appoint juries in civil trials
  - None of the above
69. A forensic auditor in his forensic audit report stated that, he found that ten million shillings have been embezzled. The facts to support the same was that he found that the day the money was withdrawn from the account, a few days later the same amount of money was deposited in the defendant's account. Which of the following **BEST** describes the evidence stated in the forensic audit report?
- Demonstrative evidence
  - Real evidence
  - Direct evidence
  - None of the above
70. Which of the following statements is **NOT** accurate in regard to the civil trial process in Kenya?
- The plaintiff counsel conduct examination in- chief of their witnesses
  - The defendant counsel cross examine the plaintiff witnesses
  - The defendant counsel can re-examine the plaintiff witness on other matters not raised during cross examination
  - None of the above
71. Which of the following is **NOT** accurate in regard to the admissibility of evidence in common law jurisdiction?
- The purpose of authentication requirement in most common law systems is to ensure that the document is not a certified copy
  - The reason for not including hearsay evidence in common law jurisdictions is because hearsay evidence is unreliable.
  - Character evidence is inadmissible as evidence because it not relevant to the facts in issue
  - All the above

72. Adversarial jurisdictions allow parties to conduct a sworn testimony given by a party or witness upon questioning by counsel for one of the parties during pre-trial. Which of the following **BEST** describe the type of examination?
- A. Cross-examination
  - B. Re-examination
  - C. Oral examination
  - D. None of the above
73. Which of the following statements, in regard to standard and burden of proof in civil trial is **ACCURATE**?
- A. In common law jurisdictions the burden of proof is with the plaintiff
  - B. In the common law jurisdictions, the standard of proof for civil trials is the same as the standard of proof for civil trials in the inquisitorial jurisdictions
  - C. The standard of proof for civil trial in the inquisitorial law jurisdictions is lower than the standard of proof for civil trials in the common law jurisdiction
  - D. None of the above
74. Which of the following statements is **ACCURATE** in regard to defendant's testimony in both the civil and common law systems?
- A. In inquisitorial judicial processes, criminal defendants are generally required to provide testimony, if so directed by the court
  - B. In inquisitorial judicial processes, criminal defendants have a right to remain silent
  - C. In adversarial judicial processes, criminal defendants have no right to remain silent
  - D. None of the above
75. Which of the following statements is **NOT** accurate in regard to civil trial court of appeal in the adversarial jurisdiction?
- A. The appellate court can raise issues of facts and law
  - B. Both the winning and the losing side may appeal
  - C. The appellate court can only review issues of the law
  - D. None of the above
76. Which of the following statements is **NOT** accurate in regard to court of appeal in the inquisitorial jurisdictions?
- A. The court of a appeal can call new expert witnesses
  - B. The court of a appeal can call new witnesses
  - C. The court can gather new documentary evidence
  - D. Civil appellate court cannot determine issues of law
77. Which of the following describe the jurisdiction where the court is involved in the investigation and examination phase?
- A. Criminal justice system
  - B. Common law legal system
  - C. Civil justice system
  - D. None of the above
78. In common law judicial processes, which of the following parties gathers evidence and conducts the questioning of the expert witnesses during trial?
- A. The presiding judge
  - B. The trial judge
  - C. The jury
  - D. None of the above
79. The authentication rules also apply to digital evidence and computer records. Which of the following statements is **NOT** accurate in regard to authentication of computer records?
- A. The digital records must be accompanied by a written certification by the database administrator
  - B. The digital records are self authenticating, therefore, there is no need for further authentication
  - C. The digital records can be authenticated by a person with knowledge of, who created the records and how they are maintained
  - D. All of the above

80. Which of the statements is **ACCURATE** in regard to protection of investigation and related reports?
- A. The investigation report is protected under the attorney client privilege
  - B. The investigation report is protected under the employer/employee privilege
  - C. The expert witness report is protected under the attorney client privilege
  - D. None of the above
81. Which of the following statements is **ACCURATE** in regard to testimonial and documentary evidence in the adversarial jurisdictions?
- A. Common law jurisdictions favor documentary evidence over testimonial evidence
  - B. Adversarial jurisdiction favor testimonial evidence over documentary evidence because they do not preside over the collection of the documentary evidence
  - C. Common law jurisdiction does not admit documentary evidence
  - D. None of the above
82. Under the Kenyan Evidence Act, which of the following statements is **NOT** accurate?
- A. Oral evidence given by witnesses must be direct
  - B. Oral evidence must be based on the witness's personal knowledge or firsthand information
  - C. Oral evidence given by an expert witness must be direct
  - D. None of the above
83. Which of the following statements is **NOT** accurate in regard to cross-examination?
- A. During cross-examinations in adversarial systems, it is a general rule for opposing counsel to cross-examine an expert witness by asking questions that will support their side
  - B. During cross-examinations in adversarial systems, it is a general rule for opposing counsel to cross-examine an expert witness by asking questions that will support the opposing side
  - C. In inquisitorial jurisdictions, the defense counsel is not allowed to cross examine court appointed expert witness
  - D. None of the above
84. Which of the following statements in regard to evidence is **NOT** accurate?
- A. Physical documents must be authenticated as a requirement for admission to evidence
  - B. Adversarial jurisdictions tend to have more stringent requirements for admissibility of evidence than the civil law jurisdictions
  - C. The objective of restrictions on admissibility of evidence is to ensure that the defendant and prosecution gets a fair hearing
  - D. All the above
85. Which of the following statements is **NOT** accurate?
- A. In the civil law jurisdiction, evidence is inadmissible when one party objects to another person's offer of evidence
  - B. Evidence can be inadmissible even if it is relevant and reliable
  - C. In the common law legal system relevant evidence to prove other facts in issue will be inadmissible to prove facts in issue being litigated
  - D. All the above
86. Which of the following statements is **ACCURATE** in regard to the standard of proof in a criminal trial in Kenya
- A. The evidence presented by the prosecution, must withstand the defence criticism to create doubts in the evidence
  - B. Evidence presented must be on balance of probability
  - C. Standard of proof is the inner conviction of the judge
  - D. None of the above
87. In the adversarial jurisdictions, relevance and admissibility are basic principles of evidence. Which of the following evidence is **NOT** relevant or admissible
- A. Real evidence that is not unauthenticated
  - B. Evidence for other similar cases committed by the criminal defendant
  - C. Evidence by a person who received the information from another party
  - D. None of the above

88. Which of the following scenarios would **NOT** result to waiver of a client's legal professional privilege over confidential communications with his attorney?
- A. The client's legal representative shares privileged communication with a consulting expert
  - B. The client intentionally shares privileged communication with an unrelated third party who has no legitimate interest in the matter
  - C. The client accidentally forwards an email with privileged information to unrelated third parties who have no need to know the information.
  - D. All of the above
89. Which of the following statements is **NOT** accurate in regard to expert witnesses in civil law jurisdictions?
- A. In inquisitorial jurisdiction the court appoints the primary expert witness
  - B. In inquisitorial jurisdiction the parties to the litigation may appoint their own expert witnesses
  - C. In inquisitorial jurisdiction the prosecution presents the evidence first
  - D. All the above
90. Which of the following statements is **NOT** accurate in regard to admissibility of evidence?
- A. Adversarial jurisdictions tend to have more stringent restrictions on admissibility of evidence than in the inquisitorial jurisdictions
  - B. The objective of the restriction of admissibility of evidence is to ensure that the prosecution gets a fair trial
  - C. Inquisitorial jurisdiction can admit almost everything as evidence
  - D. If the judge sustains the objection, then the evidence will be inadmissible
91. Belinda is a lead suspect in an ongoing civil investigation in an adversarial jurisdiction that will likely end up in litigation. Belinda accidentally shredded the original documents that were relevant to the facts in issue. Which of the following statements is **NOT** accurate?
- A. Belinda violated her duty to preserve relevant information because she destroyed evidence relevant to a reasonably anticipated litigation
  - B. Belinda did not violate her duty to preserve relevant information because the court had not advised on which documents should be preserved and at what point
  - C. Belinda violated her duty to preserve relevant information because the destruction of the documents relevant to an anticipated litigation should cease
  - D. Belinda violated her duty to preserve relevant information because intentional or unintentional destruction of the documents is obstruction of justice according to the law
92. Which of the following statements is **NOT** accurate in regard to evidence under the Kenya Evidence Act (CAP 80)?
- A. The evidence act shall not apply to all judicial proceedings in or before any court
  - B. The evidence act shall not apply to the Kadhi's court
  - C. The evidence act shall not apply to arbitration and tribunals
  - D. None of the above
93. Which of the following statements in regard to the Evidence Act is **NOT** accurate?
- A. Confession by the accused is generally inadmissible
  - B. Confession by an accused will not be admissible if it is made before any investigator
  - C. Confession by co-accused implicating himself would not be admissible as evidence against the accused
  - D. All the above
94. Which of the following statements is **NOT** correct in regard to evidence in a fraud case?
- A. Most of the fraud cases are almost entirely proven circumstantially
  - B. A person who has personal knowledge of a fraudulent transaction and is not a beneficiary of the offence can be a good fact witness to give direct oral evidence
  - C. A co-conspirator is a good fact witness to provide direct oral evidence
  - D. None of the above
95. Which of the following questions **BEST** describes an open ended question that the prosecution counsel might ask an expert witness during examination in chief in the Kenyan legal system?
- A. "How did you know that the suspect committed the offence?"
  - B. "You did find direct evidence implicating the defendant, is that true?"
  - C. "Could you please explain how bribes were paid by the contractor?"
  - D. None of the above

96. Which of the following statements is **NOT** accurate in regard to examination in chief and re- examination court processes?
- A. Examination in chief and re- examination court processes are confrontational questioning that aims at exposing the facts of the case with the court
  - B. Examination in chief and re- examination court processes are non-confrontational questioning that aims at exposing the facts of the case with the court
  - C. Re-examination court processes are non-confrontational questioning that is conducted prosecution counsel
  - D. All the above
97. Which of the following is **NOT** accurate in regard to questions that cross examination counsel can ask during cross examination?
- A. Unlike the prosecution counsel, the defence counsel can ask leading question during cross examination
  - B. Unlike the defence counsel, the prosecution counsel is not allowed to ask leading questions during direct examination
  - C. Defence counsel will never ask the prosecution witness question that they do not know the answer
  - D. None of the above
98. Which of the following statements is **NOT** accurate in regard to examination in chief?
- A. During examination in – chief, the prosecutor is allowed to ask the prosecution witness open ended questions
  - B. During examination in – chief, the prosecutor is not allowed to ask the prosecution witness leading questions
  - C. During examination in – chief, the prosecutor is allowed to ask the prosecution witness narrative questions
  - D. None of the above
99. Hearsay evidence is generally not admissible in adversarial jurisdictions like Kenya. However, there are exceptions to the hearsay rule. Which of the following is **NOT** an example of the exemption of the hearsay rule?
- A. Former testimony related to the fact in issue
  - B. An affidavit
  - C. Business records
  - D. All the above
100. Documents prepared outside the court for a purpose are generally considered as hearsay. Which of the following is **NOT** a hearsay document?
- A. An affidavit
  - B. Financial statements
  - C. Management accounts
  - D. None of the above

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**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE TWO**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 7 December 2022. Afternoon Paper.**

**Time Allowed: 3 hours.**

**Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. This paper is made up of one hundred (100) Multiple Choice Questions. Each question is allocated one (1) mark.**

1. In adversarial jurisdictions, expert witnesses are allowed to draw conclusions and express opinions. Which of the following is **CORRECT** in regard to expert opinion testimony?
  - A. An expert opinion must be oral and direct
  - B. The expert opinion must be based on specialised knowledge of the facts in issue
  - C. The expert witness must have direct personal knowledge of the facts in issue
  - D. None of the above
  
2. Flora, a fraud suspect, in the common law jurisdiction pleads guilty in a fraud case. Which of the following **BEST** describes the prosecution agreement?
  - A. Prosecution discretion
  - B. Confession
  - C. Bargaining agreement
  - D. None of the above
  
3. Which of the following statements concerning the credibility of expert witnesses in most civil law legal systems is **NOT** correct?
  - A. The judge can question the credibility of a court-appointed expert witness but not the parties to the litigation
  - B. Both the judge and the parties may question the credibility of a court-appointed expert witness
  - C. Parties to the litigation can question the credibility of a witness
  - D. All the above
  
4. Which of the following **BEST** describe judicial treatment of privileges from foreign jurisdictions in cross-border litigation?
  - A. There is no standardisation and predictability with respect to privileges in cross-border litigation
  - B. The transnational principles and rules established a set of standardised rules of privilege for cross-border litigation
  - C. Parties to litigation involving cross-border litigation should expect to have the privilege laws from their own jurisdiction applied when engaged in litigation abroad.
  - D. All the above
  
5. Which of the following is **TRUE** in regard to a lay witness's testimony?
  - A. The lay witness's testimony opinion must be prejudicial.
  - B. The lay witness's testimony opinion must be based on specialised knowledge.
  - C. The witness testimony must be based on direct personal knowledge of the facts in issue.
  - D. All the above
  
6. Which of the following statements concerning criminal bargaining agreements is most **NOT** accurate?
  - A. Bargaining agreements is gaining popularity in the common law jurisdictions as a method of disposing criminal cases
  - B. Bargaining agreements are more accepted in inquisitorial than in the adversarial jurisdictions

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- C. Bargaining agreements are more commonly accepted in common law jurisdictions than civil law jurisdictions.
- D. None of the above
7. Which of the following statements is **NOT** correct in regard to the expert witness report or statement?
- A. The expert witness report is protected by litigation privileges
- B. The expert witness report is not protected by litigation privileges
- C. The expert witness report should include the qualification of the expert witness and basis of his/her conclusion
- D. All the above
8. Which of the following is **NOT** one of the three stages of a criminal proceeding in an inquisitorial jurisdiction?
- A. The investigative phase
- B. The pre-trial phase
- C. The trial phase
- D. The examination phase
9. Which of the following statement is **TRUE** in regard to expert witness and the trial process in the common law jurisdiction?
- A. The examination in chief phase of the trial process is conducted by the parties to the litigation
- B. The cross-examination counsel will ask the expert witness questions, to look for answers that will assist him/her understand the technical matters related to the facts in issue
- C. The cross-examination counsel will not ask question that he does not have an answer
- D. All the above
10. Which of the following statements is **CORRECT** in regard to adversarial and inquisitorial jurisdictions in relation to cross-examination?
- A. Both the adversarial and inquisitorial jurisdictions feature cross - examination
- B. Only the adversarial jurisdictions feature cross-examination
- C. Only Inquisitorial jurisdictions feature cross-examination
- D. None of the above
11. In inquisitorial jurisdictions, which of the following parties may access the full evidentiary record prior to the trial phase of a criminal proceedings?
- A. The judge and the prosecution only
- B. The prosecution only
- C. Both the prosecution and the defense
- D. None of the above
12. Hassan is being prosecuted for corruption and abuse of office in a common law system using adversarial processes. In his defence, Hassan calls a witness to testify to his good character. Which of the following statements is **CORRECT** in regard to the defendant's defence?
- A. Hassan's witness testimony of good character is not a proper defence
- B. Hassan's witness testimony of good character is a proper defence
- C. Hassan's witness testimony of good character can be used to convince the judge to acquit
- D. All the above
13. Which of the following statements is **NOT** correct in regard to expert testimony in judicial proceedings?
- A. To provide direct oral testimony based on personal knowledge and perceptions of the facts in issue
- B. Assist in interpreting the technical matters related to the facts in place
- C. Assist the judge or jury determine the evidence
- D. All the above
14. Which of the following statements **BEST** describe a conflict of interest for a testifying expert witness?
- A. The expert witness was a high school classmate
- B. The testifying expert's ability to be objective because of his relationship with the client
- C. The testifying expert received higher than normal payments for his services
- D. None of the above

15. In adversarial judicial jurisdictions, which of the following is **NOT** a question that must be asked in determining whether an expert may testify before the jury or judge?
- A. Does the expert have the necessary qualifications and experience in the subject at issue?
  - B. Is the testimony reliable?
  - C. Is the testimony relevant to the facts of the case?
  - D. Does the expert have a master's degree in the subject?
16. Which of the following **BEST** describes the standard of proof for civil trials in common law jurisdictions?
- A. Preponderance of evidence
  - B. More likely than not
  - C. The inner conviction of the judge
  - D. None of the above
17. Which of the following statements concerning the criminal discovery process in adversarial jurisdictions is **ACCURATE**?
- A. Only the prosecution may request information from the defendant, but the defendant is not allowed to request for information
  - B. Both the prosecution and the defence are allowed to request for limited information from each other
  - C. A party to the litigation may be allowed to introduce exhibits that were not served to the opposing party before trial
  - D. All the above
18. Which of the following statements concerning judges and juries is **NOT** accurate?
- A. Inquisitorial judicial processes use juries as fact-finders in serious criminal cases
  - B. In a bench trial in adversarial jurisdictions, the judge only determines of law.
  - C. In adversarial jurisdictions Juries primarily determine issues of facts.
  - D. None of the above
19. In the civil law jurisdiction which of the following parties may NOT access the full evidentiary record before the trial phase of criminal proceedings?
- A. The judge and the prosecution
  - B. The defence
  - C. Both the prosecution and the defense
  - D. None of the above
20. Bob is being prosecuted in a common law system using adversarial processes for abuse of office and bribery. During trial, in defence of the charges, Bob claims that he is a man of high integrity and that he cannot engage in corruption. The prosecution wants to show evidence of Bob's previous charges of abuse of office and corruption. Which of the following is NOT correct in regard to admissibility of evidence?
- A. Character evidence is not admissible for purposes of conviction
  - B. Character evidence is admissible for purposes of sentencing
  - C. Character evidence is not admissible because it is not relevant to the facts in issue
  - D. All the above
21. Which of the following parties may **NOT** serve as fact finders in criminal proceedings in most common law systems?
- A. A panel of juries
  - B. A judge
  - C. A panel of both professional and lay judges
  - D. None of the above

22. Which of the following statements is **NOT** correct?
- A. Relevant evidence is evidence that tends to make some fact at issue more or less likely than it would be without the evidence.
  - B. In common law jurisdictions, evidence of other crimes committed by a defendant is usually inadmissible to prove that a defendant is generally a bad person, and therefore is likely to have committed the crime with which he is charged.
  - C. Under the evidence Act, relevance of evidence is key to the admissibility of evidence
  - D. All the above
23. Joab, a Certified Forensic Fraud Investigator, is testifying in court as an expert witness in an adversarial system. During cross-examination, opposing counsel invades Joab's body space. What should Joab **NOT** do?
- A. Ignore the counsel's behavior
  - B. Continue answering question
  - C. Ask the judge to intervene
  - D. All the above
24. A digital forensic expert seized a computer of a compromised computer system. If the computer forensic expert cannot verify who provided him with the computer's hard drive and who have had position of the computer since it was seized, then questions will be raised regarding which of the following?
- A. The hard drives' security
  - B. The chain of custody
  - C. The security of the hard drive image.
  - D. None of the above
25. Which of the following statement is **CORRECT** in regard to the common law legal systems?
- A. An expert witness may not express opinions or draw conclusions in his testimony during a legal proceeding
  - B. In most common law systems, a party must serve the opposing side with exhibits they are going to use in court as evidence
  - C. In common law jurisdictions that use juries, judges most commonly serve as the fact-finder in criminal
  - D. All the above
26. In common law legal systems, which of the following is generally **NOT** an objective of opposing counsel during the cross-examination of an expert witness?
- A. To ask questions that they already have an answer
  - B. To obtain information about the expert witness's previous contradicting statements to question the witness's honesty and truthfulness
  - C. To expose the expert's knowledge and experience on the matters at issue
  - D. To diminish the importance of the expert's testimony by showing that the evidence is irrelevant and unreliable
27. Which of the following is an example of direct evidence?
- A. Witness testimony about risks of fraud
  - B. Expert testimony based on interpretation of the facts
  - C. A coconspirator's testimony of their involvement in the fact in issue
  - D. Testimony that the defendant deposited five million shillings into his account on two days after the money was stolen from his employer
28. In systems using adversarial processes, an attorney may impeach an opposing party's witness by attacking either their knowledge of the subject at issue or their credibility. Which of the following is an example of impeachment based on the witness's credibility?
- A. The expert witness made prior inconsistent statements
  - B. The expert is not well trained on the subject matter
  - C. The expert has a disclosed conflict of interest
  - D. None of the above

29. In civil litigation in civil law jurisdictions, which of the following is **NOT** correct in regard to evidentiary?
- A. Evidentiary record is created during pre-trial stage
  - B. Evidentiary record is created during the examination phase
  - C. Evidentiary record is created during the investigation phase
  - D. All the above
30. Which of the following statements is **TRUE** in regard to admissibility of relevant evidence?
- A. Relevant evidence may not be admissible if it is not relevant to the facts in issue
  - B. Relevant evidence may be admissible if the evidence is prejudicial
  - C. Relevant evidence may be admissible even if it is confusing
  - D. None of the above
- Which of the following statements is **NOT** correct in regard to hearsay evidence?
- A. A photograph can be either demonstrative evidence or an exhibit
  - B. Hearsay evidence is generally inadmissible
  - C. Documents are generally hearsay
  - D. Hearsay evidence is not admissible regardless of the circumstances
31. In cross-examination of a prosecution expert witness, which of the following is an objective of cross-examination counsel when he asks questions as if he/she is looking for an answer from the expert witness
- A. Provide the expert with a false sense of security
  - B. Make the expert contradict himself
  - C. Make the expert a sounding board by continuously agreeing with the defence counsel's position
  - D. None of the above
32. Which of the following is **TRUE** in relation to Anti-fraud professionals' code of ethics, like ACFE Code of Professional Ethics, CFEs in regard to expert testimony?
- A. The expert can testify to opinion of guilt or innocence
  - B. The expert can testify to opinions of the opposing expert witness testimony
  - C. The expert cannot testify on technical matters, that is violation of accounting standards
  - D. All the above
33. In adversarial jurisdictions, for a document to be admitted into evidence, it must pass the which of the following test.
- A. The document must be properly signed
  - B. The document must be properly certified
  - C. The document must be properly encrypted
  - D. None of the above
34. Which of the following statements is **NOT** correct in regard to duty to preserve information relevant to a case, in the civil law jurisdiction?
- A. The duty arises when the case is filed with the court
  - B. The duty arises when litigation is reasonably anticipated or contemplated
  - C. The duty arises when litigation start
  - D. None of the above
35. Which of the following statements is **ACCURATE** in regard to prosecution's right to obtain disclosure of information from defendants in criminal proceedings in common law jurisdictions?
- A. The prosecution is typically entitled to more disclosures from the defendant than parties in civil litigation
  - B. The prosecution is entitled to any disclosures.
  - C. The prosecution is not entitled to any disclosures
  - D. None of the above
36. Which of the following statement is **NOT** correct in regard to waiver of privileges?

- A. Waiver of a legal professional privilege occurs when a client shares privileged information with a third party who has no role to play in litigation
  - B. Legal professional privileges cannot be extended to a third-party under any circumstances
  - C. Legal professional privileges can be extended to a third-party for consulting purposes
  - D. All the above
37. Jennifer is retained by a court to provide an expert opinion involving specialised knowledge in procurement, for litigation. Which of the following jurisdiction is Jennifer giving expert testimony?
- A. Common law legal system
  - B. Criminal Justice System
  - C. Inquisitorial jurisdiction
  - D. None of the above
38. Which of the following is a method of pre-trial civil discovery used in most common law jurisdictions?
- A. Pre-trial written examinations
  - B. Information
  - C. Search warrant
  - D. None of the above
39. In most civil law jurisdictions, which of the following parties appoint expert witnesses to provide testimony to the court?
- A. The parties to the litigation
  - B. The court
  - C. The prosecution
  - D. None of the above
40. Which of the following statement is **NOT** accurate in relation to appellate courts in common legal systems?
- A. In most common law jurisdictions, a civil appellate court generally interviews additional fact witnesses and expert testimony and collects new documentary evidence
  - B. In most common law jurisdictions, a civil appellate court does not review issues of facts
  - C. Unlike the civil legal system, the common law legal system reviews matter of the law only
  - D. All the above
41. Fiona, a Certified Forensic Fraud Examiner, has been appointed to testify in a court of law during a fraud case. During the investigation, Fiona reviewed the defendant's bank statements and found that an equivalent amount of money was deposited in her account around the same time of the alleged disappearance of the money that was under her control. Which of the following **BEST** describes the type of evidence found in the bank statements?
- A. Direct evidence
  - B. Documentary evidence
  - C. Real evidence
  - D. None of the above
42. During close examination defense counsel usually conduct the cross examination through questions. Which of the following types of questions is the defense counsel likely to ask an expert witness.?
- A. Closed questions
  - B. Narrative question
  - C. Open question
  - D. None of the above
43. In civil law jurisdictions, which of the following best describes the major role of the advocates of the parties to the litigation during civil litigation?
- A. The advocates examine and cross-examine witnesses
  - B. The advocates play an advisory role
  - C. The prosecution presents the evidence in court
  - D. All of the above

44. Which of the following statements is **NOT** correct in regard to litigation privileges?
- A. Litigation privileges and other similar evidentiary protections, such as the attorney's work product doctrine, apply only to documents and things prepared in anticipation of litigation or for trial.
  - B. Litigation privileges and other similar evidentiary protections does not protect documents that were in existence before litigation was anticipated
  - C. Affidavits are not protected by litigation privileges
  - D. All the above
45. Defence counsel usually ask complex or confusing questions during cross-examination. Certified Fraud Examiners must be aware of the advocate's' tactics. Which of the following is a type of questions or techniques that a defence counsel is likely to ask?
- A. Open questions
  - B. Closed questions
  - C. Hypothetical questions
  - D. None of the above
46. Which of the following statement is most **ACCURATE** in regard to expert witness?
- A. Certified Forensic Fraud Examiner (CFFE) credential demonstrates expertise in fraud prevention and investigation, therefore CFFEs are automatically qualified to give testimony in any fraud-related issues
  - B. To testify in court as an expert witness, the witness must have formal training and experience in the subject
  - C. To testify in court as an expert witness, the witness must have personal knowledge of the facts in issue
  - D. All the above
47. Which of the following statement is **CORRECT** in regard to appointment of expert witnesses?
- A. In all inquisitorial court systems, parties are not allowed to appoint their own expert witnesses.
  - B. All inquisitorial court systems allow parties to appoint their own expert witnesses.
  - C. In most inquisitorial court systems, the court appoints a primary expert witness
  - D. All the above
48. Which of the following items should basically be included in the trial record of civil trials in inquisitorial jurisdictions?
- A. Key document submitted as evidence
  - B. A word-for-word transcript of all oral testimony
  - C. All information provided by witnesses
  - D. All of the above
49. Which of the following statement is **CORRECT** in regard to witnesses in investigations and trial in a court of Law?
- A. All witnesses interviewed during investigations are not fact witnesses, therefore they can only provide information and not evidence
  - B. A witness who provides information based on personal knowledge, can be called to court as an expert witness
  - C. An auditor who detects a fraudulent scheme in the course of a routine audit can be called to testify in court of law as an expert witness.
  - D. All the above
50. Which of the following statement is **NOT** correct in regard to the basic principles of evidence in the common law jurisdiction?
- A. Evidence must be direct to the facts in issue
  - B. Evidence must reliable
  - C. Evidence must be admissible
  - D. All the above
51. Which of the following statements is **NOT** correct in regard to the admissibility of evidence in Kenya?
- A. Relevant evidence is not always admissible
  - B. Character evidence is inadmissible because it is not reliable
  - C. Physical items like documents presented as exhibits must be certified

- D. All the above
52. Which of the following statement is **NOT** correct in regard to exhibits?
- A. All documents related to a fact in issue are exhibits
  - B. Exhibits are form of real evidence
  - C. Demonstrative evidence is a form of demonstrative evidence
  - D. All the above
53. In a common law jurisdiction like Kenya, counsel may **NOT** be able to impeach an opposing party's witness by showing which of the following?
- A. The lay witness does not have expertise on the matters in issue.
  - B. The lay witness has a conflict of interest
  - C. The witness has previously shown lack of integrity
  - D. All the above
54. Which of the following is a reason why litigants involved in cross-border litigation should expect to have the privilege laws from their own jurisdiction applied when engaged in cross-border litigation?
- A. Courts understand international privilege laws of foreign jurisdictions which they have signed treaties with
  - B. Courts are able to better understand the concepts of the local privilege laws
  - C. Courts are more inclined to apply their own privilege laws than the laws of foreign jurisdictions
  - D. None of the above
55. In the event that the opposing counsel questioning the expert witness is using extreme unfair practices which of the following should the expert **NOT** do?
- A. Ask the judge to intervene
  - B. Ignore the counsel's unfair practice and answer questions unless otherwise directed by the court
  - C. Answer questions
  - D. None of the above
56. Which of the following is **NOT** true about the protection of communications between an advocate and his client?
- A. The client and advocate should keep the communications confidential
  - B. The purpose of the communications was to seek legal professional services
  - C. The communication of the information must only be with the advocate and the client, and no other interested parties
  - D. All of the above
57. In a civil trial in adversarial jurisdictions, a court may grant a party's request if it determines that there is no adequate defense of fact in issue and the requesting party is entitled to judgment as a matter of law. Which of the following **BEST** describe the judgement?
- A. Conviction
  - B. Sentencing
  - C. Judgment
  - D. None of the above
58. Which of the following statements is **NOT** correct in regard to the trial phases in both the common and civil law?
- A. The inquisitorial has three trial phases
  - B. The adversarial process has two phases
  - C. Conviction and sentencing are conducted in trial phase in the civil law jurisdictions
  - D. None of the above
59. In a criminal trial involving allegations of fraud, the prosecution introduces a diagram to illustrate the organisational structure of the company alleged to be involved in fraud. The diagram is what form evidence?
- A. Exhibit
  - B. Documentary evidence
  - C. Real evidence
  - D. None of the above
60. During cross-examination counsel uses several techniques. Which of the following terms **BEST** describes the advocate's technique for getting the expert witness to agree to a large amount of time being spent in one area of the investigation, only for the questioning to be on an area that the investigator did not cover, so as to show that the investigator's work was limited in scope?

- A. Contradiction  
B. False sense of security  
C. Sounding board  
D. None of the above
61. Which of the following statement is **CORRECT** in regard to expert witnesses  
A. An opposing expert can testify about the opinions of the other expert  
B. Expert witness can only be called by the court.  
C. Expert witnesses cannot be called upon to give an opinion different from that reached by an equally credible expert called by the court or the other side.  
D. All the above
63. Which of the following statement is **NOT** true in regard to juries in legal trial process in the common law of jurisdiction  
A. In civil trials in some common law jurisdictions, the jury verdict must be unanimous  
B. In criminal trials in common law jurisdictions, the jury verdict must be unanimous.  
C. Common law jurisdictions also use juries in civil trials  
D. All the above
64. A Certified Forensic Fraud Examiner in his examination report stated that, he has found that five million shillings have been misappropriated. The facts to support the same was that he found that the day the money was withdrawn from the account, a few days later the same amount of money was deposited in the defendant's account. Which of the following **BEST** describes the evidence stated in the fraud investigation report?  
A. Demonstrative evidence  
B. Real evidence  
C. Direct evidence  
D. None of the above
65. Which of the following is **CORRECT** in regard to prosecution and defence trial process in Kenya?  
A. The prosecution presents the evidence first during the examination in chief.  
B. The defence counsel cross examine the prosecution witness first  
C. The prosecution can re- examine on matters brought by the defence counsel during cross- examination and the defence cannot cross-examine further  
D. All the above
66. Which of the following is **TRUE** in regard to the admissibility of evidence in common law jurisdiction?  
A. The purpose of authentication requirement in most common law systems is to ensure that forgery is not admitted into evidence  
B. The reason for including hearsay evidence in common law jurisdictions is because hearsay evidence is unreliable.  
C. The reason for including character evidence in the common law jurisdictions is because character evidence is reliable  
D. All the above
67. Some common law countries allow parties to conduct a sworn testimony given by a party or witness upon questioning by counsel for one of the parties during pre-trial. Which of the following **BEST** describe the type of examination?  
A. Cross-examination  
B. Re-examination  
C. Direct examination  
D. None of the above
68. Which of the following statement in regard to standard and burden of proof is **CORRECT**?  
A. In inquisitorial jurisdiction, the standard of proof in civil trials and criminal trials is generally the same.  
B. In the adversarial jurisdictions, the standard of proof for civil trials is the same as the burden of proof for civil trials in the inquisitorial jurisdictions  
C. The standard of proof for civil trial in the inquisitorial law jurisdictions is lower than the standard of proof for civil trials in the common law jurisdiction  
D. All the above

69. Which of the following statement is **ACCURATE** in regard to defendant's testimony in both the civil and common law systems?
- A. In inquisitorial judicial processes, criminal defendants are generally required to provide testimony, if so directed by the court
  - B. In inquisitorial judicial processes, criminal defendants have a right to remain silent
  - C. In adversarial judicial processes, criminal defendants have no right to remain silent
  - D. All the above are correct
70. Which of the following statement is **NOT** correct in regard to civil trial court of appeal in the common law jurisdiction?
- A. Generally, only the losing side may appeal from an adverse verdict
  - B. Both the winning and the losing side may appeal
  - C. The appellate court can only review issues of the law
  - D. None of the above
71. Which of the following actions can the civil appellate court **NOT** perform in most civil law jurisdictions?
- A. Call new expert opinions
  - B. Call new witness testimony
  - C. Gather new documentary evidence
  - D. None of the above
72. The judicial process, where the court oversees the investigation of a case, is primarily responsible for questioning witnesses, and generally plays a larger role in the evidence-gathering process than the parties' legal counsel. Which of the following describe the judicial process?
- A. Adversarial process
  - B. Inquisitorial process
  - C. Civil law legal process
  - D. All the above
73. In adversarial judicial processes, which of the following parties gathers evidence and conducts the questioning of the expert witnesses at trial?
- A. The court
  - B. The parties to the litigation and their advocates respectively
  - C. The jury
  - D. The parties or their legal counsel
74. For evidence to be admissible it must be properly authenticated. The authentication rules also apply to digital evidence and computer records. Which of the following is a method of authenticating computer records is **NOT** correct?
- A. Accompanying the evidence with a written certification by the database administrator
  - B. The digital and computer records must be certified
  - C. Personal knowledge of who created the document or how it is maintained
  - D. All of the above
75. Stella, a Certified Forensic Fraud Examiner works in a common law legal system with litigation privileges. Stella conducted an investigation of an alleged fraud at the XYZ Company and prepared a report which he handed over to the audit and risk committee. Which of the statement is **CORRECT** in regard to protection of reports
- A. The report is protected under the client privilege
  - B. The report is protected under the employer/employee privilege
  - C. The report would only be protected if the investigation is conducted under the supervision of the attorney
  - D. None of the above
76. Which of the following statements is **NOT** correct in regard to testimonial evidence in the common law jurisdictions?
- A. Common law jurisdictions favor testimonial over documentary evidence
  - B. Common law jurisdiction favor documentary evidence over testimonial evidence
  - C. Common law jurisdiction admits both testimonial and documentary evidence
  - D. None of the above
77. Under the Kenya Evidence Act, which of the following statement is **NOT** correct?

- A. Oral evidence given by witnesses must be real  
B. Oral evidence must be based on the witness's personal knowledge or firsthand information  
C. Expert testimony is not direct evidence  
D. All the above
78. Which of the following statements is **CORRECT** in regard to cross-examination?  
A. During cross-examinations in adversarial systems, it is a general rule for opposing counsel to cross-examine an expert witness by asking questions that will support the opposing side  
B. In inquisitorial jurisdictions, the defense counsel is allowed to cross examine the expert witness  
C. In inquisitorial jurisdictions, the defense counsel is not allowed to cross examine court appointed expert witness  
D. None of the above
79. Which of the following statements in regard to evidence is **NOT** correct?  
A. Authentication is one of the requirements for admission of documentary evidence  
B. Common law legal systems tend to have less stringent requirements for admissibility of evidence than the civil law system  
C. The objective of restrictions on admissibility of evidence is to ensure that the defendant gets a fair hearing  
D. All the above
80. Which of the following statements is **ACCURATE**?  
A. In the civil law jurisdiction, evidence is inadmissible when one party objects to another person offer of evidence  
B. Evidence is always admissible if it is relevant and reliable  
C. In the common law legal system relevant evidence to prove other facts in issue will be inadmissible to prove facts in issue being litigated  
D. All the above
81. Which of the following statements is **NOT** accurate?  
A. In the common law legal system, relevant evidence will always be admitted  
B. In the common law legal system, relevant evidence can be inadmissible, if the evidence is unduly prejudicial, cause unnecessary delay and expensive  
C. Unlike the common law legal system, in civil legal system evidence can be admitted even if it is not relevance.  
D. All the above
82. In the common law legal system, relevance is one of the basic principles of evidence. Which of the following evidence is **NOT** relevant to the facts in issue?  
A. Unauthenticated evidence  
B. Character evidence  
C. Direct oral evidence  
D. All the above
83. Which of the following scenarios would **NOT** result to waiver of a client's legal professional privilege over confidential communications with his attorney?  
A. The client's legal representative shares privileged communications with a consultant, a third party for purposes of legal support  
B. The client intentionally shares privileged communications with an unrelated third party who has no need to know the information  
C. The client accidentally forwards an email with privileged information to unrelated third parties who have no need to know the information.  
D. All of the above
84. Which of the following statements is **NOT** true in regard to expert witnesses in common law jurisdictions?  
A. Generally, adversarial courts appoint their own expert witness, whose testimony will be the primary expert opinion considered by the court.  
B. In adversarial jurisdictions the parties to the litigation appoints their own expert witnesses  
C. Expert witnesses in adversarial must be prepared to have their testimony withstand cross examination  
D. All the above

85. Which of the following statement is **CORRECT** in regard to admissibility of evidence?
- The common law systems tend to have less stringent restrictions on admissibility of evidence than in the civil law system
  - The objective of the restriction of admissibility of evidence is to ensure that the prosecution gets a fair trial
  - Questions involving admissibility of evidence occur when one party objects to another party's offer of evidence
  - If the judge sustains the objection, then the evidence will be inadmissible
86. Brenda is the lead suspect in an ongoing civil investigation in adversarial jurisdiction that will likely end up in litigation. Brenda shredded the original documents that are key to the facts in issue. Which of the following statements is **CORRECT**?
- Brenda violated his duty to preserve relevant information because he destroyed evidence relevant to a reasonably anticipated litigation
  - Brenda did not violate his duty to preserve relevant information because litigation had not commenced when she shredded the documents
  - Brenda did not violate his duty to preserve relevant information because the destruction of the documents was overdue.
  - All the above
87. Which of the following is **NOT** true in regard to evidence under the Kenya Evidence Act (CAP 80)?
- The evidence act shall not apply to all judicial proceedings in or before any court
  - The evidence act shall not apply to the Kadhi's court
  - The evidence act shall not apply to arbitration and tribunals
  - All the above
88. Which of the following statements in regard to the evidence act is **NOT** correct?
- Confession by the accused is generally inadmissible
  - Confession by an accused will be admissible if it is made before any investigator
  - Confession by co- accused implicating himself would be admissible
  - All the above
89. Which of the following statements is **NOT** true in regard to evidence in a fraud case?
- Most of the fraud cases are almost entirely proven directly
  - A person who has personal knowledge of a fraudulent transaction and is not a beneficiary of the offence can be a good fact witness to give direct evidence
  - A co- conspirator is a good fact witness to provide direct evidence
  - All the above
90. Which of the following is an example of an open ended question that the prosecution counsel might ask an expert witness during direct examination in an adversarial system?
- "How did You know that the suspect committed the offence?"
  - "You did find direct evidence implicating the defendant, is that true?"
  - "Could you please describe how the financial statements were manipulated and the effects of the manipulation?"
  - None of the above
91. Which of the following statement is **CORRECT** in regard to examination in chief and re- examination court processes?
- Examination in chief and re- examination court processes are confrontational questioning that aims at exposing the facts of the case with the court
  - Examination in chief and re- examination court processes are un-confrontational questioning that aims at exposing the facts of the case with the court
  - Examination in chief and re- examination court processes are confrontational questioning that is conducted by the defence counsel
  - All the above
92. Which of the following is **NOT** correct in regard to questions that cross examination counsel would ask during cross examination?

- A. Cross-examining attorney will ask leading questions  
B. Cross-examining attorney will ask narrative questions.  
C. Cross-examining attorney will not ask open ended question.  
D. All the above
93. Which of the following is **NOT** correct about direct examination/ examination in chief?  
A. During examination in – chief, the prosecutor is allowed to ask the prosecution witness leading questions  
B. During examination in – chief the prosecutor is not allowed to ask the prosecution witness leading questions  
C. During examination in – chief the prosecutor is allowed to ask the prosecution witness open questions  
D. All the above
94. Hearsay evidence is generally not admissible in the adversarial jurisdictions like Kenya. However, there are exceptions to the hearsay rule. Which of the following is **NOT** an example of the exemption of the hearsay rule?  
A. Former testimony related to the fact in issue  
B. Financial statements  
C. Business records  
D. All the above
95. Documents prepared outside the court for a purpose are generally considered as hearsay. Which of the following is **NOT** a hearsay document?  
A. An affidavit  
B. Financial statements  
C. A cheque  
D. All the above
96. In the common law jurisdictions, evidence can be excluded because of lack of reliability. Which of the following is a rule of admissibility of evidence related to reliability?  
A. Rule of authentication  
B. Rule against character evidence  
C. The best rule evidence  
D. All the above
97. In the common law jurisdictions, documentary evidence can be excluded because of lack of integrity. Which of the following is a rule of admissibility of evidence related to integrity of documents?  
A. Rule of authentication  
B. Rule against character evidence  
C. The best rule evidence  
D. All the above
98. Which of the following is **NOT** true in regard to admissibility of electronic evidence under the Evidence Act?  
A. In any legal proceedings, electronic messages and digital materials will be admissible as evidence  
B. Electronic evidence will not be admissible if the date stamp change  
C. Electronic evidence must provide reliability of the manner in which the electronic digital evidence was generated, stored and communicated  
D. All the above
99. Which of the following statement is **NOT** correct in regard to character evidence in litigation privileges?  
A. In criminal trials in some common law jurisdictions, character witnesses may testify to the defendant's bad character  
B. In criminal trials in some common law jurisdictions, character witnesses may testify to the defendant's good character  
C. In criminal trials in some common law jurisdictions, character witnesses may testify generally about the good character of the defendant  
D. In criminal trials in some common law jurisdictions, character witnesses may not testify on specifics
100. Which of the following statement is **TRUE** in regard to exemption of the hearsay evidence?  
A. Statement against interest is one of the exemptions of hearsay rule  
B. Statement of interest is one of the exemptions of hearsay rule  
C. Public and business records are exemptions of hearsay rule

D. None of the above

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**CERTIFIED FORENSIC FRAUD EXAMINER (CFFE)**

**MODULE II**

**PRINCIPLES OF LAW OF EVIDENCE AND THE TRIAL PROCESS**

**WEDNESDAY: 3 August 2022. Afternoon paper.**

**Time Allowed: 3 hours.**

**This paper has one hundred (100) multiple choice questions. All questions are compulsory. Marks allocated to each question are shown at the end of the question. Each question is allocated one (1) mark.**

1. In common law countries, expert witnesses are allowed to draw conclusions and express opinions. Which of the following is **NOT** correct about an expert opinion testimony in a trial process?
  - A. The expert opinion must not be prejudicial
  - B. The expert opinion must base on specialized knowledge of the facts in issue
  - C. The expert opinion should be able to assist the judge to determine the evidence related to the facts in issue
  - D. The witness must have direct personal knowledge of the facts in issue. (1 mark)
  
2. Laura, a fraud suspect, in the civil law jurisdiction confesses to fraud. During Laura's trial for the fraud, the prosecution introduces Laura's confession as evidence of intent to commit fraud. What type of evidence is Laura's confession?
  - A. Exhibit
  - B. Direct evidence
  - C. Real evidence
  - D. Hearsay evidence (1 mark)
  
3. Which of the following statements concerning the credibility of expert witnesses in most civil law legal systems is **CORRECT**?
  - A. The judge and the parties cannot question the credibility of a court-appointed expert witness
  - B. Both the judge and the parties may question the credibility of a court-appointed expert witness
  - C. Only the parties may question the credibility of a court-appointed expert witness
  - D. Only the judge may question the credibility of a court-appointed expert witness (1 mark)
  
4. Which of the following is **NOT** an accurate statement about the judicial treatment of privileges from foreign jurisdictions in cross-border litigation?
  - A. There is standardization and predictability with respect to privileges in cross-border litigation
  - B. The transnational principles and rules established a set of standardized rules of privilege for cross-border litigation
  - C. Parties to litigation involving cross-border litigation should expect to have the privilege laws from their own jurisdiction applied when engaged in litigation abroad.
  - D. All the above (1 mark)
  
5. Austine, a Certified Forensic Fraud Examiner, obtained a document at the beginning of the investigation. Since Austin obtained the document, several individuals have had it in their possession. When litigation commenced the document was introduced at trial. The chain of custody was not maintained. Which of the following would be questioned about the document?
  - A. The authenticity of the document
  - B. The best rule of the evidence
  - C. The chain of custody
  - D. The validity of the evidence (1 mark)

6. Which of the following statements concerning criminal bargaining agreements is most **ACCURATE**?
- A. Bargaining agreements are only allowed in common law jurisdictions
  - B. Bargaining agreements are more commonly accepted in civil law jurisdictions
  - C. Bargaining agreements are more commonly accepted in civil law jurisdictions than common law jurisdictions.
  - D. None of the above
7. Which of the following statements is **TRUE** about the expert's report or statement?
- A. When an expert is hired by a court or a party to litigation to testify at trial, the expert's statement is generally protected from being disclosed to the opposing side
  - B. The expert's fraud investigation report is protected from disclosure to the opposing side
  - C. The expert report can only be presented during trial
  - D. None of the above
- (1 mark)
8. Which of the following is **NOT** one of the three stages of a criminal proceeding in an adversarial jurisdiction?
- A. The investigative phase
  - B. The pre-trial phase
  - C. The trial phase
  - D. The sentencing phase
- (1 mark)
9. Which of the following statement is **TRUE** in regard to expert witness and the trial process in the common law jurisdiction?
- A. The examination in chief phase of the trial process is, the best phase for the prosecution expert witness to establish the facts of the case with the court
  - B. The expert witness must be aware of the cross-examination counsel's techniques, that may make the expert witness support the defence side
  - C. The cross-examination counsel will usually not ask open ended question but rather leading questions
  - D. All the above
- (1 mark)
10. Which of the following statements is **NOT** true about adversarial jurisdictions and inquisitorial jurisdictions in relation to direct and cross-examinations?
- A. Both the adversarial and inquisitorial feature direct examination
  - B. Both the adversarial and inquisitorial feature cross-examination
  - C. Inquisitorial jurisdictions do not feature cross-examination
  - D. All the above
- (1 mark)
11. In adversarial jurisdictions, which of the following parties may access the full evidentiary record prior to the trial phase of criminal proceedings?
- A. The judge and the prosecution only
  - B. The prosecution only
  - C. Both the prosecution and the defense
  - D. None of the above
- (1 mark)
12. Daisy is being prosecuted in a common law system using adversarial processes for corruption and bribery. In defence of the charges, Daisy claims that she is a person of high integrity and therefore could not have committed the crime. The prosecution wants to show evidence of Daisy's previous convictions for corruption to prove that she does not have integrity as claimed. Could the court allow the prosecution to introduce the evidence of Daisy's previous convictions. Which of the following statement is **CORRECT** in regard to the admissibility of the evidence?
- A. Daisy's prior convictions are inadmissible because her character evidence is not reliable to prove the facts in issue.
  - B. Daisy's prior convictions are inadmissible because her character evidence is not relevant to the facts in issue.
  - C. Daisy's prior convictions evidence are inadmissible for conviction but can be used to determine sentencing
  - D. All the above
- (1 mark)
13. Which of the following statement is **ACCURATE** in regard to expert testimony in judicial proceedings?
- A. Provide evidence lay testimony based on personal knowledge and perceptions of the facts in issue
  - B. Assist in providing and establishing one essential circumstance among many others
  - C. Assist the judge or jury understand the evidence or to determine the fact in issue
  - D. None of the above
- (1 mark)

14. Which of the following statement **BEST** describes conflict of interest for a testifying expert witness?
- A. The expert witness knew or met the accused or their attorneys before being retained as an expert
  - B. The testifying expert's ability to be objective because of his relationship with the parties who have retained him.
  - C. The testifying expert received payments for his services as an expert witness
  - D. None of the above
- (1 mark)
15. In adversarial judicial jurisdictions, which of the following is **NOT** a question that must typically be asked in determining whether an expert may testify before the jury?
- A. Does the expert have the necessary qualifications and experience in the subject at issue?
  - B. Is the testimony reliable?
  - C. Is the testimony relevant to the facts of the case?
  - D. Does the expert have a master's degree in the subject?
- (1 mark)
16. Which of the following best describes the standard of proof for civil trials in common law jurisdictions?
- A. Clear and convincing
  - B. More likely than not
  - C. The inner conviction of the judge
  - D. Preponderance of evidence
- (1 mark)
17. Which of the following statements concerning the criminal discovery process in adversarial jurisdictions is **NOT ACCURATE**?
- A. The prosecution may request information but the defendant is not allowed to request information
  - B. Neither party may request evidence from the opposing party until after the trial begins.
  - C. A party to the litigation may be allowed to introduce exhibits that were not served to the opposing party
  - D. All the above
- (1 mark)
18. Which of the following statements concerning judges and juries is **ACCURATE**?
- A. Inquisitorial judicial processes are those that do not use juries in a fact-finding role.
  - B. In a bench trial in adversarial jurisdictions, the judge only decides questions of law.
  - C. Juries primarily decide issues of law in adversarial jurisdictions.
  - D. None of the above
- (1 mark)
19. In the civil law jurisdiction, which of the following parties may access the full evidentiary record before the trial phase of criminal proceedings?
- A. The judge and the prosecution only
  - B. The prosecution only
  - C. Both the prosecution and the defense
  - D. The defense only
- (1 mark)
20. Zachary is being prosecuted in a civil law system using inquisitorial processes for interception of data being transmitted over the internet. hacking into. During the investigation phase in defense of the charges, Zachary claims that he did not have the technical skills required to gain access to the internet, and therefore could not have committed the crime. The prosecution wants to show evidence of Zachary's previous convictions for hacking to prove that he has the technical skills required to gain access to the network. Could the court admit Zachary's character evidence of previous convictions?
- A. No, Zachary's prior convictions are inadmissible character evidence.
  - B. Yes, because the civil law jurisdiction admits character evidence
  - C. No, because the evidence is being entered to prove Zachary's ability to commit the crime
  - D. No, because the evidence is not authentic
- (1 mark)
21. Which of the following parties might serve as fact finders in criminal proceedings in various civil law systems?
- A. A jury
  - B. A judge
  - C. A panel of both professional and lay judges
  - D. All of the above
- (1 mark)

22. Which of the following statements is correct?
- A. Relevant evidence is evidence that tends to make some fact at issue more or less likely than it would be without the evidence.
  - B. In common law jurisdictions, evidence of other crimes committed by a defendant is usually admissible to prove that a defendant is generally a bad person, and therefore is likely to have committed the crime with which he is charged.
  - C. Under the evidence Act relevance of evidence is key to the admissibility of evidence
  - D. All the above (1 mark)
23. Solo, a Certified Forensic Fraud Examiner, is testifying in court as an expert witness in an adversarial system. During cross-examination, opposing counsel invades Solo's body space. What should solo do?
- A. Ignore the counsel's behavior.
  - B. Attempt to move away from opposing counsel
  - C. Ask the judge to intervene
  - D. All the above (1 mark)
24. Which of the following statement is **CORRECT** in regard to evidence and litigation privileges?
- A. In criminal trials in some common law jurisdictions, character witnesses may testify to the defendant's character about specific instances of the defendant's good character.
  - B. Litigation privileges and other similar evidentiary protections, such as the attorney's work product doctrine, only protect documents and materials prepared by an attorney.
  - C. Litigation privileges and other similar evidentiary protections, such as the attorney's work product doctrine, protect documents and materials prepared by a consulting expert under the supervision of counsel
  - D. None of the above (1 mark)
25. A digital forensic expert seized a computer of a compromised computer system. If the computer forensic expert cannot verify who provided him with the computer's hard drive and have had position since it was seized, then questions will be raised regarding which of the following?
- A. The hard drives' security
  - B. The integrity of the data
  - C. The security of the hard drive image.
  - D. None of the above (1 mark)
26. Which of the following statements is **NOT CORRECT** in regard to the common law legal systems?
- A. An expert witness may not express opinions or draw conclusions in his testimony during a legal proceeding.
  - B. In most common law systems, a party can introduce relevant exhibits as evidence in the trial only if they are original
  - C. In common law jurisdictions that use juries, judges most commonly serve as the fact-finder in criminal.
  - D. All the above (1 mark)
27. In common law legal systems, which of the following is generally **NOT** an objective of opposing counsel during the cross-examination of an expert witness?
- A. To ask questions that they do not know the answer
  - B. To obtain information about the expert witness's previous contradicting statements to question the witness's honesty and truthfulness
  - C. To discredit the expert's testimony by showing that lack expertise in the subject of the matters at issue
  - D. To diminish the importance of the expert's testimony by showing that the evidence is irrelevant and unreliable (1 mark)
28. Which of the following is an example of direct evidence?
- A. Witness testimony about red flags of fraud
  - B. Expert testimony based on interpretation of the facts
  - C. A lay testimony of someone saying that she saw the defendant steal items from his employer's inventory
  - D. Testimony that the defendant deposited one million shillings into his account on the same day one million was stolen from his employer (1 mark)

29. In systems using adversarial processes, an attorney may impeach an opposing party's witness by attacking either their knowledge of the subject at issue or their credibility. Which of the following is an example of impeachment based on the witness's knowledge
- A. The expert witness made prior inconsistent statements
  - B. The expert has a reputation for untruthfulness
  - C. The expert has a conflict of interest
  - D. None of the above
- (1 mark)
30. In civil litigation in civil law jurisdictions, when is the trial record typically created?
- A. After the presiding judge has completed the investigations
  - B. During the examination phase
  - C. After the court has completed the examination phase
  - D. In the pre-trial stage
- (1 mark)
31. For evidence to be admissible, the evidence must be relevant to the facts in issue, however it is not always the case. Relevant evidence does not automatically mean that it will be admitted in adversarial trials. Evidence may be relevant but still inadmissible. Which of the following is one of those scenarios?
- A. Relevant but not to the facts in issue
  - B. Relevant but unduly prejudicial
  - C. Relevant but confusing
  - D. All of the above
- (1 mark)
32. Which of the following statements is **NOT** correct in regard to evidence?
- A. A photograph can be either demonstrative evidence or an exhibit
  - B. The three basic forms of evidence are demonstrative, real, and direct.
  - C. The primary reason for maintaining the chain of custody on an item is to ensure the authenticity of the item
  - D. Hearsay evidence is not admissible in adversarial jurisdiction because it is not reliable
- (1 mark)
33. In cross-examination of an expert witness, the defence counsel will often use the "Is it not true?" and "Would you agree with me?" approach. Which of the following is an objective of this technique of cross-examination?
- A. Show that the witness is not objective due to the conflict of interest he holds
  - B. Provide the expert with a false sense of security
  - C. Confuse the expert to contradict himself
  - D. Make the expert a sounding board by continuously agreeing with the defense counsel's position
- (1 mark)
34. According to anti-fraud professionals' code of ethics, fraud examiners who testify as expert witnesses are prohibited from:
- A. Testifying to opinions of guilt or innocence
  - B. Testifying to opinions of the opposing other expert witness testimony
  - C. Testifying that, according to the evidence, they believe the accused committed the offence
  - D. All the above
- (1 mark)
35. In adversarial jurisdictions, for a document to be admitted into evidence, it must pass which of the following test?
- A. The document must be properly signed
  - B. The document must be properly certified
  - C. The document must be properly authenticated
  - D. All the above
- (1 mark)
36. Which of the following statements is **CORRECT** in regard to at what point does the duty to preserve information arises in the common law jurisdiction?
- A. The duty arises when the case is filed with the court
  - B. The duty arises court files a written order directing a party to preserve certain information
  - C. The duty arises when litigation is reasonably anticipated or contemplated
  - D. When an action for a negligent or intentional injury against a person or property is filed.
- (1 mark)
37. Which of the following statements is **ACCURATE** in regard to prosecution's right to obtain disclosure of information from defendants in criminal proceedings in common law jurisdictions?
- A. The prosecution is typically entitled to more disclosures from the defendant than parties in civil litigation
  - B. The prosecution is entitled to any disclosures.
  - C. The prosecution is not entitled to any disclosures
  - D. None of the above
- (1 mark)

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38. Which of the following statement is **NOT** correct in regard to waiver of privileges?
- A. Waiver of a legal professional privilege occurs when a client shares privileged information with a third party who has no role to play in litigation
  - B. Legal professional privileges can be extended to a third-party offering expertise support in a litigation
  - C. Legal professional privileges cannot be extended to a third-party offering expertise support in a litigation
  - D. All the above (1 mark)
39. Caroline is retained by a court to provide an opinion involving specialised knowledge in the accounting field for a trial. Which of the following legal system is Caroline giving expert testimony?
- A. Common law legal system
  - B. Criminal Justice System
  - C. Civil legal system
  - D. None of the above (1 mark)
40. Which of the following is a method of pre-trial civil discovery used in most civil law jurisdictions?
- A. Pre-trial written examinations
  - B. Information
  - C. Search warrant
  - D. None of the above (1 mark)
41. In most civil law jurisdictions, which of the following parties appoint expert witnesses to provide testimony to the court?
- A. The parties to the litigation
  - B. The judge
  - C. The prosecution
  - D. None of the above (1 mark)
42. Which of the following statements is **ACCURATE** in relation to Trial and appellate courts in common and civil legal systems?
- A. In most common law jurisdictions, a civil appellate court generally interviews additional fact witnesses and expert testimony and collects new documentary evidence
  - B. In most civil law jurisdictions, a civil appellate court does not review issues of facts
  - C. Unlike the civil legal system, the common law legal system reviews matter of the law only
  - D. All the above (1 mark)
43. Linnet, a Certified Forensic Fraud Examiner, has been appointed to testify during a fraud case. During the investigation, Linnet reviewed the defendant's bank statements and found that an equivalent amount of money was deposited in her account around the same time of the alleged disappearance of the money that was under her control. Which of the following **BEST** describes the type of evidence found in the bank statements?
- A. Direct evidence
  - B. Demonstrative evidence
  - C. Circumstantial evidence
  - D. None of the above (1 mark)
44. Defense counsel usually conduct their cross examination through questions. Which of the following types of questions is the defense counsel likely to ask the expert witness?
- A. A Leading question
  - B. A double negative question
  - C. Alternative question
  - D. All the above (1 mark)
45. In common law jurisdictions, which of the following best describes a major role of the advocates of the parties to the litigation during civil litigation?
- A. To examine and cross-examine witnesses
  - B. To request and obtain documentary evidence from each other prior to the trial
  - C. The prosecution presents the evidence in court
  - D. All of the above (1 mark)

46. Which of the following statements is **CORRECT**?
- A. Litigation privileges and other similar evidentiary protections, such as the attorney's work product doctrine, apply only to documents and things prepared in anticipation of litigation or for trial.
  - B. If the attorney shares client communications that are confidential and subject to the legal professional privilege with an outside consultant hired to help provide legal advice to the attorney's client, the client will not lose legal professional privilege
  - C. Litigation privileges and other similar evidentiary protections does not protect documents that were in existence before litigation was anticipated
  - D. All the above (1 mark)
47. Advocates have a habit of asking complex or confusing questions during cross-examination in a trial process. When a Certified Forensic Fraud Examiner is hired to testify in court, they must be aware of the advocate's' tactics. Which of the following is a tactic or techniques used by the cross-examining advocates?
- A. Asking overly complex questions that cannot be easily understood
  - B. Asking leading questions to make the expert support the opposing side's position
  - C. Asking question pretending they do not the answer, hoping the expert will give the wrong answer
  - D. All the above (1 mark)
48. Which of the following statements is **NOT** correct in regard to expert witnesses?
- A. Certified Forensic Fraud Examiner (CFFE) credential demonstrates expertise in fraud prevention and investigation, therefore CFFEs are automatically qualified to give testimony in any fraud-related issues
  - B. To testify in court as an expert witness, the witness must have formal training and experience in the subject
  - C. To testify in court as an expert witness, the witness must know the facts of the matter in issue
  - D. All the above (1 mark)
49. Which of the following statements is **NOT** correct in regard to appointment of expert witnesses?
- A. In all inquisitorial court systems, parties are not allowed to appoint their own expert witnesses.
  - B. Some inquisitorial court systems allow parties to appoint their own expert witnesses.
  - C. In most inquisitorial court systems, the court appoints a primary expert witness
  - D. All the above (1 mark)
50. Which of the following items should basically not be included in the trial record of civil trials in inquisitorial jurisdictions?
- A. Every document submitted as evidence
  - B. A word-for-word transcript of all oral testimony
  - C. All information provided by witnesses
  - D. All of the above (1 mark)
51. Which of the following statements is **NOT** true in regard to witnesses in investigations and trial in a court of Law?
- A. All witnesses interviewed during investigations are not fact witnesses, therefore they can only provide information and not evidence
  - B. A witness who can give provide facts of the matter at issue based on personal knowledge can be called to court as a lay/fact witness
  - C. An auditor who detects a fraudulent scheme in the course of a routine audit can be called to testify in court of law as an expert witness to interpret the technical facts of the case
  - D. All the above (1 mark)
52. Which of the following statements is **CORRECT** in regard to the basic principles of evidence in the common law jurisdiction?
- A. Evidence must be relevant to the facts at issue
  - B. Evidence must reliable
  - C. Evidence must be admissible
  - D. All the above (1 mark)
53. Which of the following statements is **TRUE** in regard to the admissibility of evidence in Kenya?
- A. Illegally obtained evidence is inadmissible
  - B. Hearsay evidence is inadmissible because it is not reliable
  - C. Physical items like document presented as exhibits must be properly authenticated
  - D. All the above (1 mark)

54. Which of the following statements is **NOT** correct in regard to evidence?  
 A. All relevant documents related to a fact in issue are exhibits  
 B. Exhibits are not always in form of a real evidence  
 C. Character evidence is an example of demonstrative evidence  
 D. All the above (1 mark)
55. In a common law jurisdiction like Kenya, counsel may be able to impeach an opposing party's witness by showing which of the following?  
 A. The lay witness has an impaired ability to observe.  
 B. The lay witness has a conflict of interest  
 C. The witness has previously shown lack of integrity  
 D. All the above (1 mark)
56. Which of the following is a reason why litigants involved in cross-border litigation should not expect to have the privilege laws from their own jurisdiction applied when engaged in cross-border litigation?  
 A. Courts understand their local privilege laws more than the laws of foreign jurisdictions  
 B. Courts are able to better understand the concepts of the local privilege laws  
 C. Courts are more inclined to apply their own privilege laws than the laws of foreign jurisdictions  
 D. All of the above (1 mark)
57. In the event that the opposing counsel questioning the expert witness is using extreme unfair practices, which of the following should the expert do?  
 A. Rebuke the counsel  
 B. Ignore the counsel's unfair practice and answer questions unless otherwise directed by the court  
 C. Should not be seen to be evading answering questions  
 D. None of the above (1 mark)
58. Which of the following is **TRUE** about the protection of the communications between an advocate and his client to be protected by a legal professional privilege?  
 A. The client and advocate should keep the communications confidential  
 B. The purpose of the communications was to seek legal professional services  
 C. The communication is between a lawyer and a client  
 D. All of the above (1 mark)
59. In a civil trial in adversarial jurisdictions, a court may grant a party's request if it determines that there is no adequate defense of fact at issue and the requesting party is entitled to judgment as a matter of law. Which of the following **BEST** describes the judgement?  
 A. Summary Judgement  
 B. Final judgment  
 C. Judgment n.o.v  
 D. Conviction (1 mark)
60. Which of the following statements is **NOT** correct in regard to the trial phases in both the common and civil law?  
 A. The inquisitorial has three trial phases  
 B. The adversarial has sentencing  
 C. Conviction and sentencing are conducted in separate phases in the civil law jurisdictions  
 D. None of the above (1 mark)
61. There are three forms of evidence that fall in either of the two types of evidence. In a criminal trial involving allegations of fraud, the prosecution introduces a diagram to illustrate the organizational structure of the company alleged to be involved fraud. The diagram is what form evidence?  
 A. Exhibit evidence  
 B. Demonstrative evidence  
 C. Documentary evidence  
 D. Real evidence (1 mark)
62. Which of the following is the cross-examination technique that entails getting the expert to admit a great amount of time being spent in one area of the investigation, and then questioning on an area that the investigator did not cover, for purposes of showing that the investigators work was limited in scope.  
 A. Contradiction  
 B. False sense of security  
 C. Myopic vision  
 D. None of the above (1 mark)

63. Which of the following statements is **NOT** true in regard to expert witnesses
- A. An opposing expert cannot testify about the opinions of the other expert.
  - B. Expert witness may be called by the court or the parties.
  - C. Expert witnesses are sometimes called upon to give an opinion different from that reached by an equally credible expert called by the court or the other side.
  - D. All the above
- (1 mark)
64. Which of the following statements is **TRUE** in regard to juries in legal trial process in the common law jurisdiction
- A. In civil trials in some common law jurisdictions, the jury verdict does not need to be unanimous.
  - B. In criminal trials in common law jurisdictions, the jury verdict must be unanimous.
  - C. Civil law jurisdictions do not use juries in civil trials, the judge acts as the fact finders
  - D. All the above
- (1 mark)
65. A Certified Forensic Fraud Examiner in his examination report stated that, he has found that five million shillings have been misappropriated. The facts to support the same was that he found that the day the money was withdrawn from the account, a few days later the same amount of money was deposited in the defendant's account. Which of the following **BEST** describes the evidence stated in the fraud investigation report?
- A. Indirect evidence
  - B. Circumstantial evidence
  - C. Direct evidence
  - D. None of the above
- (1 mark)
66. Which of the following **BEST** describes the prosecution and defence trial process in Kenya?
- A. The prosecution presents the evidence during the examination in chief.
  - B. The defence counsel cross examine the prosecution witnesses
  - C. The prosecution can re- examine on matters brought by the defence counsel during cross- examination and the defence can further cross-examine
  - D. All the above
- (1 mark)
67. Which of the following is **TRUE** in regard to the admissibility of evidence in common law jurisdiction?
- A. The purpose of authentication requirement in most common law systems is to ensure that forgery is not admitted into evidence
  - B. The reason for excluding hearsay evidence in common law jurisdictions is because hearsay evidence is unreliable.
  - C. The reason for excluding character evidence in the common law jurisdictions is to ensure justice because character evidence is not reliable to prove that a defendant who had previously been convicted, is the same person who committed the offence in question
  - D. All the above
- (1 mark)
68. Some common law countries allow parties to conduct a sworn testimony given by a party or witness upon questioning by counsel for one of the parties during pre-trial. Which of the following **BEST** describes the type of examination?
- A. Cross-examination
  - B. Re-examination
  - C. Oral examination
  - D. Direct examination
- (1 mark)
69. Which of the following statements in regard to standard and burden of proof is **CORRECT**?
- A. In civil law systems, the standard of proof in civil trials and criminal trials is generally the same.
  - B. In the common law jurisdictions, the standard of proof for civil trials is lower the burden of proof for civil trials in the civil law jurisdictions
  - C. The standard of proof for civil trial in the civil law jurisdictions is higher than the standard of proof for civil trials in the common law jurisdiction
  - D. All the above
- (1 mark)
70. Which of the following statements is **NOT** accurate in regard to defendant's testimony in both the civil and common law systems?
- A. In inquisitorial judicial processes, criminal defendants are generally required to provide testimony, if so directed by the court
  - B. In inquisitorial judicial processes, criminal defendants have a right to remain silent
  - C. In adversarial judicial processes, criminal defendants have a right to remain silent
  - D. All the above are correct
- (1 mark)

71. Which of the following statements is **CORRECT** in regard to civil trial court of appeal?
- A. Generally, only the losing side may appeal from an adverse verdict
  - B. Both the winning and the losing side may appeal
  - C. Only the winning side may appeal for equitable remedy
  - D. All the above
- (1 mark)
72. Which of the following actions may a civil appellate court perform in most civil law jurisdictions?
- A. Obtain new expert opinions
  - B. Obtain new witness testimony
  - C. Gather new documentary evidence
  - D. All of the above
- (1 mark)
73. The judicial process, where the court oversees the investigation of a case, is primarily responsible for questioning witnesses, and generally plays a larger role in the evidence-gathering process than the parties' legal counsel. Which of the following does **NOT** describe the judicial process?
- A. Adversarial process
  - B. Inquisitorial process
  - C. Civil law legal process
  - D. All the above
- (1 mark)
74. In the common law judicial processes, which of the following parties gathers evidence and conducts the questioning of fact and expert witnesses at trial?
- A. The court
  - B. The parties to the litigation or their advocates
  - C. The jury
  - D. The parties or their legal counsel
- (1 mark)
75. Authentication applies both to tangible documents and computer records. Which of the following is a method of authenticating computer records?
- A. Accompanying the evidence with a written certification by the database administrator
  - B. Providing evidence of the elements of the documents
  - C. Personal knowledge of, who created the document or how is maintained
  - D. All of the above
- (1 mark)
76. Terry, a Certified Forensic Fraud Examiner who lives and works in a common law legal system with litigation privileges, conducted an investigation of an alleged corruption. Terry discovered fraud at the XYZ Company and prepared a report that handed over to the audit committee. Which of the statement is **CORRECT** in regard to protection of reports?
- A. The report is protected under the client privilege
  - B. The report is protected under the employer/employee privilege
  - C. The client advocate privilege
  - D. None of the above
- (1 mark)
77. Which of the following statements is **TRUE** in regard to testimonial evidence in both the common and civil law jurisdictions?
- A. Testimonial evidence refers to oral statements made by witnesses under oath.
  - B. Civil law jurisdictions favor testimonial over documentary evidence
  - C. Common law jurisdiction favor documentary evidence over testimonial evidence
  - D. None of the above
- (1 mark)
78. Under the Kenya Law Evidence Act, which of the following statement is correct?
- A. Oral evidence given by witnesses must be direct.
  - B. Oral evidence must be based on the witness's personal knowledge or firsthand information
  - C. Expert testimony is not direct evidence, but experts can express opinion on technical matters of the fact in issue
  - D. All the above
- (1 mark)

79. Which of the following statement is **NOT** correct in regard to cross-examination?
- A. During cross-examinations in adversarial systems, it is a general rule for opposing counsel to cross-examine an expert witness by asking questions that will benefit the opposing side.
  - B. In inquisitorial jurisdictions, the defense counsel is allowed to cross examine the expert witness
  - C. In inquisitorial jurisdictions, the defense counsel is not allowed to cross examine court appointed expert witness
  - D. None of the above (1 mark)
80. Which of the following statements in regard to evidence is correct?
- A. The rules of evidence can be complex; therefore, a legal counsel should be consulted when issue of evidence arises
  - B. Common law legal systems tend to have more stringent requirements for admissibility of evidence than the civil law system
  - C. The objective of restrictions on admissibility of evidence is to ensure that the defendant gets a fair trial
  - D. All the above (1 mark)
81. Which of the following statements is most **NOT** accurate?
- A. In the common law jurisdiction, evidence is inadmissible when one party objects to another person offer of evidence
  - B. Evidence can be relevant and reliable but not admissible if obtained illegally
  - C. In the common law legal system relevant evidence to prove other issues will not be admissible to prove the facts in issue to any issue
  - D. All the above (1 mark)
82. Which of the following statements is most **ACCURATE**?
- A. In the common law legal system, relevant evidence will always be admitted
  - B. In the common law legal system, relevant evidence can be inadmissible, if the evidence is unduly prejudicial, cause unnecessary delay and expensive
  - C. Unlike the common law legal system, in civil legal system relevance of evidence is not a requirement for admissibility of evidence
  - D. All the above (1 mark)
83. In the common law legal system, reliability is one of the basic principles of evidence. Evidence may be found unreliable if the evidence is
- A. Not authenticated
  - B. Based on character evidence
  - C. Based on hearsay evidence
  - D. All the above (1 mark)
84. Which of the following scenarios would potentially result in the waiver of a client's legal professional privilege over confidential communications with his attorney?
- A. The client's legal representative shares privileged communications with an unrelated third party who has no need to know the information
  - B. The client intentionally shares privileged communications with an unrelated third party who has no need to know the information
  - C. The client accidentally forwards an email with privileged information to unrelated third parties who have no need to know the information.
  - D. All of the above (1 mark)
85. Which of the following statements is **TRUE** in regard to expert witnesses in civil and common law jurisdictions?
- A. Generally, inquisitorial courts appoint their own expert witness, whose testimony will be the primary expertise considered by the court.
  - B. In some inquisitorial jurisdictions, the parties might also be able to (or required to) make experts available for the court-appointed expert to question.
  - C. Expert witnesses in both adversarial and inquisitorial systems must be prepared to have their testimony withstand cross examination
  - D. All the above (1 mark)

86. Which of the following statement is **NOT** correct in regard to admissibility of evidence?
- The common law systems tend to have stringent restrictions on admissibility of evidence than in the civil law system
  - The objective of the restriction of admissibility of evidence is to ensure the defendant gets a fair trial
  - Questions involving admissibility of evidence occur when one party objects to another party's offer of evidence
  - If the judge sustains the objection, then the evidence will be admissible (1 mark)
87. Carey is the lead suspect in an ongoing civil investigation in adversarial jurisdiction that will likely end up in litigation. Carey shredded the original documents that are key to the investigation because they were due for destruction. Which of the following statements is **NOT** correct?
- Carey violated his duty to preserve relevant information because he destroyed evidence valuable to anticipated litigation
  - Carey violated his duty to preserve relevant information even though litigation had not commenced when he shredded the documents
  - Carey violated his duty to preserve relevant information because, with an ongoing investigation, litigation was reasonably anticipated
  - All the above (1 mark)
88. Which of the following is **TRUE** in regard to evidence under the Kenya Law Evidence Act (CAP 80)?
- The evidence act shall apply to all judicial proceedings in or before any court
  - The evidence act shall not apply to the Kadhi's court
  - The evidence act shall not apply to arbitration and tribunals
  - All the above (1 mark)
89. Which of the following statements in regard the evidence act is **CORRECT**?
- Confession by the accused is generally inadmissible
  - Confession by an accused will be admissible if it is made before the magistrate or police officer not below the rank of an inspector
  - Confession by co-accused implicating himself would be admissible
  - All the above (1 mark)
90. Which of the following statements is **TRUE** in regard to evidence in a fraud case?
- Most of the fraud cases are almost entirely proven circumstantially
  - A person who has personal knowledge of a fraudulent transaction and is not a beneficiary of the offence can be a good fact witness to give direct evidence
  - A co-conspirator is a good fact witness to provide direct evidence
  - All the above (1 mark)
91. Myopic vision is one of the cross-examination technique that can be used to support an expert witness' by highlighting areas in which the expert has done much research on.
- True
  - False (1 mark)
92. Which of the following would be an example of a narrative question that an attorney might ask an expert witness during direct examination in an adversarial system?
- "How did you know that the suspect was deceptive?"
  - "You did not find any direct evidence implicating the suspect, is that true?"
  - "Could you please describe the methods you took during your examination?"
  - None of the above (1 mark)
93. Which of the following questions will the cross examining counsel ask during cross examination?
- Cross-examining attorney will ask leading questions
  - Cross-examining attorney will ask narrative questions
  - Cross-examining attorney will ask open ended question
  - None of the above (1 mark)
94. During examination in – chief the prosecutor is allowed to ask the prosecution witness leading questions?
- True
  - False (1 mark)

95. Hearsay evidence is generally not admissible in the adversarial jurisdictions like Kenya. However there some exceptions to the hearsay rule. Which of the following is an example of the exemption of the hearsay rule?  
A. Former testimony related to the fact in issue  
B. Statements against interest  
C. Business records  
D. All the above (1 mark)
96. Documents prepared outside the court are generally considered as hearsay. Which of the following is **NOT** a hearsay document?  
A. An affidavit  
B. Financial statements  
C. A receipt or invoice  
D. All the above (1 mark)
97. Expert witness can be excluded if it draws legal conclusions.  
A) True  
B) False (1 mark)
98. In the common law jurisdictions, evidence can be excluded because of lack of reliability. Which of the following is a rule of admissibility of evidence?  
A. Rule of authentication  
B. Rule against character evidence  
C. The best rule evidence  
D. All the above (1 mark)
99. Which of the following is **TRUE** in regard to admissibility of evidence under the Evidence Act?  
A. In any legal proceedings, electronic messages and digital materials will be admissible as evidence  
B. Evidence will be admissible if it is in its original form  
C. Reliability of the manner in which the electronic digital evidence was generated, stored and communicated  
D. All the above (1 mark)
100. A person called to provide a document in court is a court witness.  
A) True  
B) False (1 mark)

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