

PRE- CLASS TASK FOR WEEK 16

GROUP EIGHT (8)

COUNCIL OF LEGAL EDUCATION

NIGERIAN LAW SCHOOL

PROFESSIONAL ETHICS AND SKILLS

Question 1

Mr. Gadus Selenge, a legal practitioner of 10 years post-call experience practicing under the name of Gadus and Associates. He was retained by Mrs. Duncan in January 2024 to handle a complex land dispute in the High Court of Rivers state. At the point of instruction, Mr. Gadus issued no written terms of engagement but agreed orally to “handle everything” for a total fee of ₦5,000,000 out of which an initial deposit of ₦1,000,000 was made by Mrs. Duncan.

Over the course of 10 months, Mr. Gadus Selenge prepared legal documents, attended 12 court sittings at the cost of ₦60,000 per court appearance, filed the Originating Process at the cost of ₦100,000, He conducted legal search for ₦200,000 and Drafting of legal documents for ₦100,000, Consultation Fees was 3,00,000, and he filed other necessary court processes at ₦500,000. Services of hearing notices was done at the cost of ₦250,000, Transportation of 2 subpoenaed witnesses at the cost of ₦100,000 and ₦500,000 for certification of documents.

By January 2025, the case was still ongoing but Mrs. Duncan refused to pay any further money, complaining about lack of transparency in billing despite Mr. Gadus repeated demands. Mr Gadus then decided to file a suit for the recovery of the charges at the customary court.

Mrs. Duncan responded by applying for taxation of the bill. She also alleged that the fees were excessive, that Mr. Gadus had overcharged and failed to comply with the Legal Practitioners Remuneration Order 2023.

Instructions:

Using this scenario, answer the following:

1. **Identify and explain the legal and ethical issues (if any) in Mr. Gadus' billing method.**

ANSWER:

1. Reasonableness of Fees

- Under the Rules of Professional Conduct for Legal Practitioners, fees must be fair and commensurate with the service rendered in line Rule 48 of the Rules of Professional Conduct.

The lawyer must be guided that overcharging or exploiting a client's ignorance is unethical.

2. Transparency and Disclosure

- By virtue of Rule 14 of the RPC Lawyers must disclose fee structures clearly and avoid hidden charges.

- Surprise billing or vague estimates can erode trust and violate ethical norms.

3. Demanding Fees Aggressively

- Rule 15 of the PRC mandates the lawyer to represent the client within the bound of law. Harassment, threats, or coercion to extract payment is unethical and may attract disciplinary action from the Legal Practitioners Disciplinary Committee.

4. Conflict of Interest

- By virtue of Rule 17 of the RPC, a lawyer must not let the pursuit of fees interfere with their duty to act in the best interest of the client.

5. Handling Client Funds

- By virtue of Rule 1 of the RPC, a lawyer must not involve in any action that would bring the legal profession to ridicule and must keep client funds (including retainers) in a designated client account and not mix them with personal funds.

- Misappropriation or delay in refunding unused funds is both unethical and criminal.

2. **Outline the procedural steps Mr. Gadus should have followed to recover his fees.**

ANSWER:

The procedure for recovery of charges is adequately spelt out in **S. 16 LPA**. The procedure was affirmed and explained by the Supreme Court in **OYEKANMI v. NEPA**. The procedural steps Mr. Gadus should have followed to recover his fees include:

1. **Bill of charges preparation:** he must have prepared a bill of charges which must duly particularize the principal items of his claim and it must be duly signed
2. **Service of bill of charges:** he must have served his client with the bill of charges either by personal service on him or at his last known address or by post to the last known address(substituted service).
3. **Expiration of one month:** he must allow a period of one month to elapse from the date the bill was served before commencing the action.
4. **Commencement of action:** Where after the expiration of the one (1) month period, the client is still in default of payment, the lawyer can commence an action for recovery of the fees at the State High Court.

Whereafter the service of the Bill of charges on the client, it appears to the legal practitioner that the client intends to abscond without payment or do any act which would unreasonably delay payment, then the lawyer may do away with the condition of waiting for one month by applying to the Court by way of MEP+A or (MON if the court directs) stating the above grounds that bill of charges has been delivered to client and there are circumstances indicating client wants to do an act to prevent or delay the payment -- **S. 16(3) LPA**. If the court is satisfied of the above (and that the charges appear to be proper), then it may, notwithstanding that the one (1) month period has not elapsed, direct and authorize the lawyer to

commence and prosecute an action to recover the charges unless before judgment in the action, the client gives such security for the payment of the charges as may be specified in the direction.

3. **Identify and draft the proper document to be prepared by Mr. Gadus Selenge for the claim of his proconsular charges.**

ANSWER;

The proper document is a **Bill of Charges (Bill of Costs)** as drafted below:

GADUS&ASSOCIATES

Barristers, Solicitors&Advocates

No. 10 Aba Road, Port Harcourt, Rivers State

Tel: 08013345

Email: gaduslaw@gmail.com

OUR REF:

DATE: 2 FEBRUARY, 2025

To,

Mrs. Duncan

No 5 North Avenue Port Harcourt

Rivers.

Dear madam,

BILL OF CHARGES IN RESPECT OF LAND DISPUTE IN THE HIGH COURT OF RIVERS STATE.

This is to notify you of the charges for the representations made in your behalf in respect of land dispute in the high court of Rivers state rendered by Mr. Gadus

Selenge (Legal Practitioner) with Suit No: PHC/123/2024 at the High Court of Rivers State:

| S/NO | PARTICULARS OF ITEMS | AMOUNT (N) |
|------|---|------------|
| 1 | Instructions and initial consultations | ₦300,000 |
| 2 | Preparation and filing of originating processes | ₦100,000 |
| 3 | Conduct of legal search | ₦200,000 |
| 4 | Drafting of pleadings and legal documents | ₦100,000 |
| 5 | Court attendances (12 sittings @ ₦60,000 each) | ₦720,000 |
| 6 | Filing of interlocutory applications and other processes | ₦500,000 |
| 7 | Service of hearing notices | ₦250,000 |
| 8 | Transportation of subpoenaed witnesses | ₦100,000 |
| 9 | Certification of documents | ₦500,000 |
| 10 | Miscellaneous disbursements (stationery, photocopies, etc.) | ₦30,000 |
| | TOTAL | ₦2,800,000 |

Less deposit paid = ₦1,000,000

Balance Outstanding = ₦1,800,000

Kindly pay the sum of sixty-five thousand naira (1,800,000) into account No. **304070113** belonging to Gadus & Associates at First Bank PLC.

Thank you for the anticipated cooperation.

Yours faithfully,

.....

Gadus Selenge Esq.

(Principal Partner)

4. **Discuss the process and implications of taxation in this case and what factors would the taxing officer consider in assessing the reasonableness of Mr. Gadus Selenge's charges?**

ANSWER;

In the case of Mr. Gadus Selenge and Mrs. Duncan, taxation of the bill of charges is a formal process initiated by Mrs. Duncan's application. This process allows for an independent assessment of the legal fees to determine their reasonableness.

Process of Taxation:

Mrs. Duncan's application for taxation occurs after Mr. Gadus Selenge has filed a suit for the recovery of his charges. At this stage, which is after the initial one-month period following the service of a bill of charges but before a judgment, the court has the discretionary power to order taxation.

The procedure for taxation typically involves:

1. Application to the High Court: Mrs. Duncan's application for taxation would be made to the High Court.
2. Assessment by Taxing Officer: The bill of charges will be assessed by a taxing officer, who is an officer appointed by the court.
3. Presence of Parties: Taxation is usually conducted in the presence of both the legal practitioner (Mr. Gadus Selenge) and the client (Mrs. Duncan), though it can proceed in the absence of a party or be adjourned for special reasons.
4. Referral to Court: In appropriate circumstances, the taxing officer may refer the taxation to the court itself for assessment.
5. Issuance of Certificate
6. If either party is dissatisfied with the taxing officer's decision, they can appeal to the High Court within 21 days.

Implications of Taxation

The taxation process carries several implications for both Mr. Gadus Selenge and Mrs. Duncan:

- Determination of Recoverable Fees
- Cost of Taxation: If the amount determined by the taxing officer is less than the amount Mr. Gadus Selenge originally billed by not less than one-sixth, then Mr. Gadus Selenge will be responsible for the cost of taxation. Otherwise, Mrs. Duncan, as the client, will bear the costs.
- Addressing Complaints: It directly addresses Mrs. Duncan's complaints that the fees were excessive, that Mr. Gadus had overcharged, and that he failed to comply with the Legal Practitioners Remuneration Order 2023.

Factors for Assessing Reasonableness

1. The time it will take to accomplish the work
2. The skill and labour required to complete the work
3. The novelty and difficulty of the questions involved
4. Opportunity foregone.
5. Customary charges of the Bar for similar services
6. The contingency or certainty of the compensation
7. The amount of money involved in the suit or controversy
8. The benefit accruing to the client from the matter.

5. **Draft the statement of claim in the event a suit is to be filed to recover the sum outstanding from Mrs Duncan.**

ANSWER:

IN THE HIGH COURT OF RIVERS STATE
IN THE PORTHARCOURT JUDICIAL DIVISION
HOLDEN AT PORTHARCOURT

SUIT NO:

BETWEEN:

1. GADUDS & ASSOCIATE ----- CLAIMANT

AND

MRS DUNCAN -----DEFENDANT

STATEMENT OF CLAIM

STATEMENT OF CLAIM

1. The Claimant is a registered legal practitioner resident at Mofoluku Stree, Ijanba, Portharcourt, Rivers State and is engaged in the service of legal profession
2. The Defendant is a business woman resident at Iyamoye Crescent, Portharcourt, Rivers State
3. The claimant was retained by the defendnat in January 2024 to handle a complex land dispute in the High Court of Rivers state.

4. At the point of instruction, the claimant issued no written terms of engagement but agreed orally to “handle everything” for a total fee of ₦5,000,000 out of which an initial deposit of ₦1,000,000 was made by Mrs. Duncan.
5. By January 2025, when the case was still ongoing the defendant refused to pay any further money, complaining about lack of transparency in billing.
6. The defendant applied for taxation of the bill which was delivered by the claimant indicating that the sum of ₦2,800,000 as be expended leaving the defendant outstanding balance of ₦1,800,000. Attached Exhibit CH1
7. Despite repeated demands and reminders, both oral and written, the Defendant has failed, refused, and/or neglected to pay the outstanding balance.
8. The Claimant avers that the Defendant has no lawful justification for withholding payment and is thereby indebted to the Claimant in the sum of ₦1,800,000
9. The Claimant further avers that the Defendant’s refusal to pay has caused financial hardship and disrupted the Claimant’s business operations.
10. The Claimant shall rely on all relevant documents including invoices, delivery notes, correspondence, and receipts at the trial of this suit.
11. The Claimant claims interest on the outstanding sum at the rate of [insert rate]% per annum from [insert date] until judgment is delivered and thereafter at the rate of [insert rate]% until the judgment sum is fully liquidated.
12. The Claimant particulars of claim as follow

| S/NO | PARTICULARS OF ITEMS | AMOUNT (N) |
|------|---|------------|
| 1 | Instructions and initial consultations | ₦300,000 |
| 2 | Preparation and filing of originating processes | ₦100,000 |
| 3 | Conduct of legal search | ₦200,000 |
| 4 | Drafting of pleadings and legal documents | ₦100,000 |
| 5 | Court attendances (12 sittings @ ₦60,000 each) | ₦720,000 |

| | | |
|----|---|------------------------|
| 6 | Filing of interlocutory applications and other processes | ₦ 500,000 |
| 7 | Service of hearing notices | ₦ 250,000 |
| 8 | Transportation of subpoenaed witnesses | ₦ 100,000 |
| 9 | Certification of documents | ₦ 500,000 |
| 10 | Miscellaneous disbursements (stationery, photocopies, etc.) | ₦ 30,000 |
| | TOTAL | ₦ 2,800,000 |

WHEREOF the Claimant claims against the Defendant as follows:

1. The sum of ~~₦~~1,800,000 being the outstanding balance of payment due from the Defendant to the Claimant.
2. Cost of this action assessed at ~~₦~~500,000-
3. Any further or other reliefs as the Court may deem fit to grant.

Dated this 2ND day of September 2025.

O.A Awo, Esq

CLAIMANT'S COUNSEL

Group 8 Chambers,

NLS, BWARI, FCT

08072464004

.

For Service on:

The Defendant

MRS DUNCAN

Moot Court Complex,

Nigerian Law School,

Bwari, Abuja.

6. Would this case qualify for pro bono or legal aid in any way? Explain the relevance or irrelevance of these concepts in the present scenario.

ANSWER:

The Case is not qualified for Pro-Bono on the ground that the defendant has not shown any difficulty to cater for her legal fees. The idea of Probono is to help those who are not financially buoyant to acquire a legal service.

Relevance of Pro Bono Cases

1. Access to Justice for the Indigent

- With over 133 million Nigerians living in multidimensional poverty, many cannot afford legal representation.
- Pro bono services ensure that marginalized individuals—such as pretrial detainees, victims of abuse, or displaced persons—can still access the courts and assert their rights.

2. Strengthening the Rule of Law

- By representing underserved populations, lawyers help enforce laws fairly and prevent systemic neglect.
- Pro bono litigation has led to landmark judgments that shape constitutional interpretation and human rights enforcement.

3. Professional Responsibility

- The Rules of Professional Conduct encourage lawyers to contribute to the public good.

- The Nigerian Bar Association (NBA) promotes pro bono work through initiatives like the Pro Bono Declaration and partnerships with the Legal Aid Council.

4. Social Impact and Legal Reform

- Pro bono efforts often expose gaps in legislation or enforcement, prompting policy reform.
- They empower communities, support NGOs, and contribute to nation-building.

The irrelevance of Pro-Bono

Some may view pro bono cases as:

- Financially unrewarding: True, they don't generate direct income, but they offer long-term value in reputation and influence.
- Time-consuming: Yet they often involve simpler legal issues and can be handled efficiently.
- Low priority: However, they address urgent human needs and uphold the dignity of the legal profession.

7. Enumerate and explain the types of fees a legal practitioner may charge under the Rules.

ANSWER:

1. Scale Fees

- Definition: Charged for non-contentious work such as drafting contracts, conveyancing, wills, and other legal documents.
- Basis: Often calculated based on the value of the transaction (e.g., property value in a land transfer).

- Example: Preparing a deed of assignment for a property worth ₦50 million may attract a scale fee of 1–5% depending on the complexity.

2. Fixed (Rate) Fees

- Definition: A predetermined fee for a specific legal service.
- Use Case: Common for routine services like notarization, affidavit preparation, or company registration.
- Benefit: Provides clarity and predictability for clients.

3. Hourly Rate Fees

- Definition: Charged based on the number of hours spent on a matter.
- Application: Often used in advisory roles, negotiations, or complex litigation.
- Note: Lawyers must keep accurate time records to justify the charges.

4. Appearance Fees

- Definition: Charged for each court appearance or representation at a tribunal or hearing.
- Variation: May differ based on the court level (e.g., Magistrate vs. High Court) and location.
- Additional Costs: Travel and accommodation may be billed separately.

5. Percentage Fees

- Definition: A fee calculated as a percentage of the value of the subject matter.
- Common In: Debt recovery, probate matters, and property transactions.
- Caution: Must be reasonable and not amount to champerty (i.e., sharing in the proceeds of litigation unlawfully).

6. Contingency Fees

- Definition: Payable only if the lawyer wins or successfully resolves the case.
- Typical In: Personal injury claims, debt recovery, or commercial disputes.
- Regulation: Must be agreed upon in writing and comply with ethical rules.

7. Retainer Fees

- Definition: A periodic fee paid to keep a lawyer “on call” for ongoing legal services.
- Use Case: Common with corporate clients who require regular legal advice.
- Structure: May include a cap on hours or services covered.

8. Will Mr. Gladus Selenge Esq., be entitled to any payment assuming Mrs Duncan terminates the brief before the conclusion of the matter? Give reasons for your answer.

ANSWER:

If Mrs Duncan terminates the brief before the conclusion of the matter, Mr Gladus Selege Esq will be entitled to payment. This is because a lawyer is entitled to payment according to the services which he performed on a quantum meruit basis and if the withdrawal is no fault of his.

Therefore Mr Duncan Selege Esq is entitled to payment if Mrs Gladus terminates the brief before conclusion of the matter, according to the services which he rendered.

Question 2

(a) Mrs. Pauline Orie is a legal practitioner in the law office of Kevwe, Onoche & Co. She was assigned to handle the Process of the purchase of the property of Madam Kofo Okeke by Fortune Oil & Gas Ltd. at the sum of sum of N90 Million.

Calculate the remuneration of Mrs Pauline Orie. as solicitor for Fortune Oil & Gas Ltd for drafting the Deed of Assignment. Chris Atu esq. Represented Madam Kofo in the transaction. Calculate her fees.

ANSWER:

The calculation of the remuneration of a legal practitioner is governed by the following laws:

1. Rules of Professional Conduct 2023
2. Legal Practitioners Act 2004
3. The Approved Scale of Charges issued by the Nigerian Bar Association

Legal fees for conveyancing are usually calculated as a percentage of the consideration.

| Transaction Value | Percentage Fee |
|-------------------|----------------|
|-------------------|----------------|

| | |
|------------------|----|
| First N5 million | 5% |
|------------------|----|

| | |
|-----------------|----|
| Next N5 million | 4% |
|-----------------|----|

| | |
|------------------|----|
| Next N40 million | 3% |
|------------------|----|

| | |
|------------------|----|
| Next N50 million | 2% |
|------------------|----|

| | |
|--------------------|----|
| Above N100 million | 1% |
|--------------------|----|

Mrs Pauline Orie Esq is entitled to the following remuneration:

First N5 million: $5,000,000/1 \times 5/100 = \text{N}250,000$

Next N5 million: $5,000,000/1 \times 4/100 = \text{N}200,000$

Next N40 million: $40,000,000/1 \times 3/100 = \text{N}1,200,000$

Remaining N40 million: $40,000,000/1 \times 2/100 = \text{N}800,000$

$250,000 + 200,000 + 1,200,000 + 800,000 = \text{N}2,450,000$

Therefore, the total remuneration Mrs Pauline Orie Esq is entitled to for drafting the deed of Assignment for the property of Fortune Oil & Gas Ltd is N2,450,000 million naira only.

To calculate the appearance fees of a legal practitioner what would be looked at are the appropriate scale of charges for litigation. Legal fees for litigation are based on the following

1. The nature and complexity of the case
2. The monetary value involved
3. The stage of litigation reached
4. The court level
5. The location of the NBA branch

Assuming the case handled by Chris Atu Esq was handled in Lagos, then it will be Nigerian Bar Association (NBA) Lagos guidelines for scale of litigation that would be used and they are:

| Claim Value | Appearance Fee (per sitting) | Full Case Fee (Minimum) |
|----------------------------|------------------------------|--------------------------|
| N50 million – N100 million | N250,000 – N500,000 | N5 million – N10 million |

Therefore, Chris Atu Esq having represented Madam Kofo Okeke in the transaction will be entitled to an estimate of N250,000 - N500,000 per appearance and a total of N5 million naira – N10 million naira as the full case fee. However, some lawyers may charge more or less depending on:

1. The client's capacity.
2. The complexity of the case.
3. Whether the matter is settled early or goes to full trial.

b) Assuming Fortune Oil and Gas Ltd. Leased the property from Madam Kofo at an annual rent of N80 Million and Ogun Edo esq acted for Fortune Oil and Gas Ltd while Jagfa Bali esq acted for Madam Kofo in the transaction. Calculate their professional fees.

ANSWER:

Step 1: For the first 5 Million, N750,000 would be charged.

Step 2: For the remaining N75 Million, 5% of it = N3,750,000

Step 3: Total Fee – 750,000 + 3,750,000 = N4,500,000

Therefore, the minimum fee to be charged by **Ogun Edo** Esq. Would be **N4,500,000**.

While for Jagfa Bali Esq, the half of the fee paid to Ogun would be paid to him.i.e. 4,500,000 divide by 2, equals N2,250,000.

So, **Jagfa Bali Esq.** is entitled to **N2,250,000** to be paid separately from the other lawyer.

c) Assuming that Jagfa Bali represented both Madam Kofo and Fortune Oil and Gas Ltd in the lease transaction, calculate his fees.

ANSWER:

Representing both Madam Kofo and Fortune Oil and Gas Ltd.in this same transaction would mean he is both the Drafting Lawyer and Reviewing Lawyer, therefore, he would be entitled to the fee given to a drafting lawyer (which in (b) above, was Ogun Edo).

Therefore,

Step 1: For the first 5 Million, N750,000 would be charged.

Step 2: For the remaining N75 Million, 5% of it = N3,750,000

Step 3: Total Fee – 750,000 + 3,750,000 = N4,500,000

Jagfa Bali Esq.is entiltled to N4,500,000.