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**NATIONAL OPEN UNIVERSITY OF NIGERIA**

**14-16 AHMADU BELLO WAY, VICTORIA ISLAND LAGOS**

**SEPTEMBER/OCTOBER 2015 EXAMINATION**

**SCHOOL OF LAW**

**COURSE CODE: LAW 446**

**COURSE TITL: LAW OF EVIDENCE II**

**TIME ALLOWED: 3 Hrs**

**INSTRUCTION: ANSWER QUESTION 1 AND ANY THREE QUESTIONS, ALL QUESTIONS CARRY EQUAL MARKS**

1. John was shot at Ketu bus stop by 11 pm. There were no eye witnesses to the shooting. The matter was reported to the police. Bello, a police officer arrived at the scene of the shooting. John told Bello at the scene of the shooting, “Ade shot me. Ade told me he will get me for owing money for things I bought from him”. During investigation, Kenny, Ade’s wife made a statement to the police where she says that John owed Ade money but has consistently refused to repay it. However, Kenny intends to claim privilege during Ade’s trial as his wife. The prosecution intends to introduce the evidence John made to Bello. Discuss the evidentiary issues that arise from the above.
2. Hearsay is an out of court statement offered for its truth. The Evidence Act 2011 excludes all hearsay unless there is an exception. Discuss.
3. MrLabinjo won a contract for the construction of a major highway in Lagos. He flew to Lagos and had in his briefcase currencies including Naira, U.S Dollars and British Pounds. Accompanying him was Mr. Benjamin, a 100 year old man and Mr. James, a dumb. He intended to send the 100 year old man to a high brow hospital for medical check. When he arrived Lagos the three persons boarded an airport taxi, and the taxi driver offered to take them to their hotel. Inside the airport taxi was another man who is the taxi driver’s friend who wants to familiarize himself with the routes in Lagos. Upon arrival at the hotel, MrLabinjo took his briefcase and sought to come down from the taxi. As he made to alight from the taxi, the taxi driver snatched his briefcase from him and the taxi driver’s friend shot MrLabinjo in the leg. Mr. Benjamin and Mr. James witness the incident. The taxi driver and his friend drove off with a great speed. Mr. Labinjo was fatally wounded and died died on the way to the hospital. However, the taxi driver and his friend were subsequently arrested and charged to court for the murder of MrLabinjo and the stealing of Mr Bola Eko’s briefcase and the

contents. During trial, Mr. Benjamin and Mr. James sought to give oral evidence but were opposed by the defence on the basis that Mr. Benjamin being a 100 year old man cannot give oral evidence in the matter and that Mr. James, being a dumb cannot give oral evidence in the case. Discuss the evidentiary issues that arise from the above.

1. The Judges rules are mere administrative directions lacking the force of law but Judges often insist on their observance. Discuss.
2. The rule of Evidence which precludes a party to a suit from asserting or denying certain facts is referred to as estoppel per rem judicatam. Evaluate this statement
3. The Law of Evidence confers certain privileges on both the state and private individuals for different purposes. Discuss.