**NAME: AYANLERE OLUWAPELUMI DEBORAH**

**MATRIC NO: 18/LAW01/050**

**QUESTION 1:**

**Criminal Procedure from Arraignment to Imposition of Sentence**

Criminal Procedure can be defined as the method of commencing, conducting, and concluding criminal proceedings in the court of law. There are certain stages or procedures to be followed for an action under criminal procedure to be successful.

The stages for criminal procedure in High Court are clearly explicated below:

1. **Arraignment and Plea:** This is the initial stage in court where the judge reads the charges filed against the defendant in the complaint. The accused may plead either of the following
2. **Autrefois acquit:** **Section 221(1) (b) Criminal Procedure Act** provides that a person may plead that he has been tried for the same previously and was pardoned.
3. **He may refrain from saying anything:** In a situation where an accused stands mute, that is, without saying anything, it is recorded as plea of not guilty by the court.
4. **Plead guilty to a lesser offence:** An accused can plead guilty to a lesser offense other than the accusation made against him. If the plea is accepted, the instant charge will be dropped and the court will pass its sentence accordingly.
5. **Plead guilty:** If the accused pleads guilty, there will be no need to prove guilt or innocence so the court will pass a sentence based of the crime.
6. **Plead not guilty: Section 217 Criminal Procedure Act** provides that where a person pleads not guilty, the trial shall continue.
7. **Prosecution:** The prosecution shall open his case by bringing forth evidence. He may call a witness and tender the exhibits they may have. He shall carry out the examination in chief, the defense shall do the cross examination and the prosecution shall take a re-examination. The burden of proof is on the prosecution to proof beyond reasonable doubt that the accused is in fact guilty.
8. **Submission Of ‘No Case To Answer’:** This means that the defense council can say that there is no sufficient evidence provided to prove the guilt of the accused. Hence, there is no case to answer to.
9. **Defense:** In line with **section 241-243 of Criminal Procedure Act**, the accused and his witnesses, if any, are called for chief examination by the defense counsel, cross examination by the prosecuting counsel and reexamination by the defense counsel. This is an opportunity for the defense to prove that their client is innocent.
10. **Closing Addresses:** In this stage, both parties are to make an oral address to the court from the written address they have filed as a way of rounding off the case. This is the final opportunity to prove that judgment should be made in each of their favors.
11. **Judgment:** After the closing address, the judge fixes a date for the judgment to be issued. In the judgment, the judge sums up the evidence given by both sides. He is also to give reason as to the judgment he made.
12. **Discharge:** By virtue of **Section 301 Criminal Procedure Act,** where an accused person has been found innocent, on merit, the judge will dismiss the charges and accordingly discharge and acquit the accused person. Also, if the prosecution failed on a technicality, then the person will be discharged but not acquitted.
13. **Imposition of Sentence:** After a person is found guilty, before passing the sentence, a plea for mercy or leniency is usually made by the defense counsel. After that, the judge passes the sentence. The types of sentences the judge may give are imprisonment, fine, death sentence, caning and deportation. Orders may also be given.

**QUESTION 2:**

**Modes of Commencing Civil Action in High Court**

**Writ Of Summons**

A writ of summons is a formal document issued by a court ordering a person to be in court. It states the nature of the claim made by the plaintiff, the relief or remedy claimed and a warning that, in default of his causing an appearance to be entered as commanded, the plaintiff may proceed therein and judgment may be given in defendant’s absence.

Generally, all actions are to be commenced by the writ of summons except where there is any express legislation prescribing another mode. A writ of summons is the appropriate mode for commencing an action which by its nature is contentious. Usually, action commenced by a writ of summons requires the filing of pleadings and possibly a long trial.

All civil actions commenced by writ of summons shall be accompanied by:

a) Statement of claim;

b) List of witnesses to be called at the trial;

c) Written statement on oath of the witnesses; and

d) Copies of every document to be relied upon at every trial – **order 5 rule 2 (a-e) High Court of Lagos Civil Procedure Rules (2019)**

 **Originating Summons**

It is a summons that initiates proceedings. However, a summons in a pending matter does not initiate proceedings but it is used for making interlocutory applications in a pending cause or matter.

Generally, originating summons are used for actions where the facts are not likely to be in dispute (a question of law rather than disputed issues of facts). When the principal question in issue is or is likely to be one of construction of a written law or any instrument or of any deed or will or contract, originating summons may be used for the determination of such questions or construction. It sets out the questions the court is being asked to settle. In the case of **SSS v. Agbakoba (1999) 3 NWLR (Pt. 595) 425;** it was held that originating summons is used where it is sought to correct errors in a judgment. It is also known as an originating motion.

**Petitions**

A petition is a written application in the nature of a pleading setting out a party’s case in detail and made in open court. It can only be used in a situation where a statute or Rules of court prescribe it. Most times petitions are used for marriage proceedings, winding up of companies and election cases. Petitions are filed in the same manner as writ of summons.

When filing petitions, these documents must accompany it:

Statement of claim;

b) List of witnesses to be called at the trial;

d) Copies of every document to be relied upon at trial