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Attempt

Question 1

In this hypothetical scenario before me, the legal issues include:

- a) Whether or not the collective agreement made between The National Association of Workers in Oil Industry of

Nigeria, TUWOIN and the Association of Oil Companies in Nigeria is enforceable

b) Whether or not, Madam Aja has the right to sue Ogunpa Oil Company for not being paid.

The general disposition of the law as it relates to the enforceability of collective agreement is that a collective agreement cannot be enforced. However, as it is always said, there are always exceptions to the general rule which arises under certain circumstance. Before I move further, I would like to define the term; collective agreement. According to section 91 of the Labour Act, a collective agreement can be defined as an agreement in writing as regards to the physical

conditions of work as well as any matter relating to the terms of employment that is concluded between, an employer, an organisation representing a group of employer and an association of such organization and a worker, an organisation representing workers or an association of such organisation. Haven said this, we shall now continue from where we discontinued. The Collective agreement which generally, is not enforceable can be made enforceable in a situation where three copies of such agreement have been deposited with the minister who has now made an order that will be binding on the parties to whom the agreement relates to as can be seen under section 3 subsection 3 of the Trade Disputes Act. it can also

be enforceable when the agreement has been reviewed and interpreted by the National Industrial Court. Another instance for which the collective agreement may be made binding is when it has been referred to or incorporated or expressly stated in the contract of employment of the employee. Thus, it is the bedrock of the terms and conditions guiding the employment contract of the employee.

Similarly also, in the case before me, if the collective agreement made between The National Association of Workers in Oil Industry of Nigeria, TUWOIN and the Association of Oil Companies in Nigeria for which Ogunpa Oil Company is a member was deposited with the minister

according to section 3 subsection 1, it will be enforceable as may be seen subsection 3 of the same section of the Trade Disputes Act. If the agreement was to be reviewed or interpreted by the National Industrial Court or if it was implied or expressly incorporated into the contract of the employee who in this case is Madam Aja, it will be legally enforceable. Otherwise, it will not be legally enforceable.

Whether or not Madam Aje has the right to sue or not. As earlier established, any and all collective agreement, if not all, is not enforceable at common law. Hence, Madam Aje has no right to sue Ogunda Oil Company because they refuse to pay her security allowances under

common law. However, in a situation where her contract of employment is governed under such collective agreement, she can therefore now sue. Also, if the collective agreement has been deposited with the minister under section 3 of the Trade Disputes Act and where the agreement have been interpreted by the National Industrial Court, she is therefore empowered to sue.

In conclusion, therefore, collective agreement are not meant to be enforceable but can be enforced only under special circumstances as stated above. Hence, my advice to Justice Adamu is that Madam Aja can sue but

only if she is able to prove that any of the above-stated exceptions are true.

2)

In the case given to me, the legal issues are;

- a) Whether or not, Mr Olabanjo has the right to sue both Esso Petroleum and Ade an employee at that establishment.
- b) Whether or not Eunice who is also an employee at Esso Petroleum can sue both the company and Ade.

The general principle of the law is that an employer is to be held vicariously liable for the acts of its servant. This liability can come in

terms of crime, statute, or tort. In this case here, the liability is in terms of tort. This liability usually arises from the liability of the employee.

Whether or not or not, Mr Olabanjo has the right to sue both Esso Petroleum and Ade an employee at that establishment. Mr Olabanjo has the right to sue both Esso Petroleum and Ade even though the indirect act of Ade which caused him to lose his left eyes were not authorised by the company. This is because Ade is seen under the law as an employee acting on the behalf of the establishment and as such, it imposes a liability on the employer even if its an unauthorised act but as



long as it is done in the course of his employment or in the furtherance of the interest of his employer as may be seen in the case of *Iyere v.* On the contrary, if, the company is able to prove that they had expressly prohibited the employer from such actions and the third party were to be aware of such prohibitions, the employer may be able to successfully exempt himself from the vicarious liability.

Whether or not Eunice who is also an employee at Esso Petroleum can sue both the company and Ade. Eunice can sue both Ade the company. The reason is that, Ade was authorised to be at the dinner

party, acting on behalf of the company, and even though, he was dancing at his will, his employers are still liable as may be seen in the case of

In conclusion, therefore, my advice is that both Mr Olabanjo and Eunice have the right to sue both Esso Petroleum and Ade.