

CHUKA



UNIVERSITY

UNIVERSITY EXAMINATIONS

EXAMINATION FOR THE AWARD OF DEGREE OF BACHELOR
OF COMMERCE

BCOM 343: INSURANCE LAW

STREAMS: BCOM

TIME: 2 HOURS

DAY/DATE: FRIDAY 07/12/2018

11.30 A.M. – 1.30 P.M.

INSTRUCTIONS:

- Answer question ONE and any other TWO questions
- Do not write on the question paper

QUESTION ONE

- (a) John who had applied for an insurance cover for his house forgot to sign the proposal form but Mamba insurance company issued a policy, latter after discovering the defect the insurer wanted to cancel the policy. John has appointed you to advise him. Do so, stating the relevant case law [6 marks]
- (b) Explain the general rules of agency that govern the actions of agents and in their relationship to insured. [8 marks]
- (c) Insurance policies are interpreted according to certain well defined rules of construction which have been established by case laws, discuss 6 of the rules [12 marks]
- (d) Explain the essentials of the doctrine of insurable interest [4 marks]

QUESTION TWO

- (a) Discuss the classification of insurance contracts [10 marks]

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- (b) Assume that a ksh 300,0900 liability claim is covered under two liability insurance contracts. Policy A has a ksh 500,000 limit of liability for the claim, while policy B has a kshs 125,000 limit of liability. Both contracts provide for contribution by equal shares.
- (i) How much will each insurer contribute towards this claim [5 marks]
- (ii) If the claim were only ksh 50,000 how much would each insurer pay [5 marks]

QUESTION THREE

- (a) Tosh is applying for health insurance policy. He has chronic liver ailment and other health problems. He honestly disclosed the true facts concerning her medical history to the insurance agent. However the agent did not include all the facts in the application. Instead, the agent stated that he was going to cover the material facts in a separate letter to the insurance company's underwriting department. However, the agent did not furnish the material facts to the insurer and the contract was issued as standard. A claim occurred shortly thereafter. After investigating the claim, the insurer denied payment. Tosh contends that the company should pay the claim because he answered honestly all questions that the agent asked.
- (i) On what basis can the insurance company deny payment of the claim [6 marks]
- (ii) What legal doctrines can Tosh use to support his arguments that the claim should be paid [4 marks]
- (b) Explain the circumstances where issue of policy does not amount to acceptance [4 marks]
- (c) Explain three purposes of an insurance policy [6 marks]

QUESTION FOUR

- (a) Explain the exceptions of the principle of indemnity [8 marks]
- (b) A person is said to have insurable interest in the subject matter of insurance if he will suffer a monetary loss on its destruction by happening of the event insured against. Explain how insurable interest arises. [12 marks]

