

CHUKA



UNIVERSITY

UNIVERSITY EXAMINATIONS

**SECOND YEAR EXAMINATION FOR THE AWARD OF DEGREE
OF BACHELOR OF COMMERCE & BACHELOR OF CATERING**

BCOM 202: BUSINESS LAW I

STREAMS: BCOM (Y2S2) BCHM

TIME: 2 HOURS

DAY/DATE: WEDNESDAY 11/4/2018

8.30 A.M. – 10.30 A.M.

INSTRUCTION: ANSWER QUESTION ONE AND ANY OTHER TWO QUESTIONS

1. (a) Mastermind tobacco co ltd offered by way of reward of shs. 100,000.00 to anyone who contracted influenza after using one of their newly introduced cigarettes as prescribed. The offer stated that they had lodged shs 10,000,000.00 with commercial bank of Kenya to show their sincerity in this matter. John Phillip used the cigarettes as prescribed but that notwithstanding, he contracted (suffered) influenza. He claimed the reward of shs. 10,000.00. mastermind ltd refuses to pay. Can he succeed if he sues them? Give reasons for your answer. [5 marks]
- (b) Explain defamation and what constitutes defamation. [10 marks]
- (c) The case of Solomon v. Solomon and company ltd (1897) imports an important principle in business law. Restate the principle and discuss its basic meaning. [5 marks]
- (d) A sends an invitation to his friend in Chogoria to come to Chuka to play in A's football match against a local team during the weekend. B sends a letter accepting A's offer and travels to Chuka at his own expense. He presents himself to the football field, but A refuses to include him in the team. Can B sue A for breach of contract? [5 marks]

- (e) “Parliamentary legislation is a better source of the Kenya law than subsidiary legislation”. Discuss this view with a view to highlighting only the positive aspects of it. [5 marks]

QUESTION 2

- (a) Mwaniki, a friend of Mr. Onyango who perished in a terrible road accident, contracted with Messi a son Onyango for the purchase of one quarter piece of land from Messi. Messi is seventeen years old and is offering the piece of land situated in the prime area for only shs 3.4 million. Mr. Mwaniki has already paid 10% of the purchase price and in the course of a friendly conversation, he lets some information about the deal slip to your sharp ears and he decides to give the details of the deal. Advise him on his legal position vis-à-vis that of Messi. [5 marks]
- (b) Discuss five rules of a valid offer. [10marks]
- (c) A young boy ran away from his father’s home and the father issued pamphlets announcing thus” anybody who finds trace of the boy and brings him will get ksh 10,000”, X saw this boy near a railway station and promptly took him to the railway police station and then sent a telegram to the boy’s father that he had found the missing son. Was X to be rewarded? Decide this citing relevant case law. [5 marks]

QUESTION 3

- (a) Discuss five (5) essentials of a valid acceptance. [10 marks]
- (b) Mumbi is a young person aged 14 years. According to the kikuyu customer laws, a girl is supposed to undergo female genital mutilation. Last week she was actually forced into the rite and she is to be married off to Kiplangat next week. She comes to you for advice on what can be done. Discuss customary law as a source of Kenya law. [5 marks]
- (b) Explain the concept of separation of powers. [5 marks]

QUESTION 4

- (a) Mr. Mwiti a resident of Maua was travelling from Nairobi to Maua. On reaching Nchiru, the driver of the bus nicknamed 'MwendaKasi' in a bid to overtake a lorry ahead, rammed into an oncoming trailer causing severe injury to Mr. Mwiti. He was later admitted at the Meru General hospital. The family of Mr. Mwiti spent more than shs. 500,000 as medical expenses and now Mr. Mwiti has been released from hospital and has instructed his advocate who has written a demand letter to Meru star ltd, your input has been sought for by managing director with regard to the demand letter. Remember police officers from Nchiru police station blamed and charged your driver one Mr. Safari for reckless driving.

Required:

Advise the board of directors on the type of tort involve in the case and the best possible way to deal with it. [5 marks]

- (b) Kariuki entered Jatomy supermarket, picked up one of shopping baskets provided and filled it with groceries from the shelves. As he was approaching the cashier he realized that his wallet had been stolen and decided to replace the goods on the shelves. The manager of the supermarket who had been observing Kariuki's movements instructed one of his assistants to approach Kariuki and tell him that the goods had been sold and he could not replace them on the shelves. Advise Kariuki accordingly. [5 marks]
- (c) A contract supported by consideration and the intention to enter into legal relations, may still have no legal effect due to vitiating factors which affects the validity of the contract. Explain five vitiating elements. [10 marks]
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