

CHUKA



UNIVERSITY

UNIVERSITY EXAMINATIONS

CHUKA, CHOGORIA AND EMBU CAMPUSES

**EXAMINATION FOR THE AWARD OF DEGREE OF BACHELOR OF COMMERCE
AND BACHELOR OF EDUCATION ARTS**

BCOM 202: BUSINESS LAW

STREAMS: BCOM & BED ARTS Y2S2

TIME: 2 HOURS

DAY/DATE: MONDAY 08/04/2024

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

- (i) Mr. Wera was appointed Minister for Water Services in August 2022. On or about January 2023 a post was published on Nairobi Gossip, an online blog with the heading, 'Wera tests positive for a deadly disease.' The post included a photo of Mr. Wera prominently displayed on the left. A search of Wera's name on google provides links to the offensive article on Nairobi Gossip blog. Wera has written several letters to google's offices in Kenya seeking to have the search results removed but his plight has not been addressed. He approaches you for advice on whether the publication amounts to defamation and whether he has a valid claim against Nairobi Gossip blog; further, he wonders whether he can sustain a claim in defamation against Google.
- (a) Describe your advise to him concerning his suit for defamation . (7 marks)
- (b) Identify and discuss the three defenses that Nairobi Gossip may raise against the suit for defamation. (6 marks)
- (ii) By August 2010 Kenya probably had a constitution without constitutionalism. Discuss this statement by explaining how the constitution is a source of law. (6 marks)
- (iii) Contrast criminal law and civil law. (5 marks)

- (iv) In relation to the law of persons, illustrate which persons are regarded as legal subjects, also show the unique features of these persons. (6 marks)

QUESTION TWO

- (a) Explain whether there is a binding agreement in the following situations:
- (i) Alex wrote to James offering to sell his car to him for Ksh. 500,000. James accepted Alexis offer subject to the price being reduced to Ksh 450,000. It has become apparent that Alex is not willing to sell the car for Ksh 450,000. James now writes to Alex asking to buy the car for Ksh. 500,000. (6 marks)
- (ii) Dicey sees an advertisement by Dazzle TV Suppliers “ For sale: Smart TV at only Ksh. 1200-Hurry limited Supplies. Send a cheque to Dazzle TV Suppliers.” Dicey then orders 20 TV sets from Dazzle TV Suppliers. The day before the sets are to be delivered, the premises of Dazzle TV suppliers are flooded during a heavy downpour and 10 of the TV sets are damaged beyond repair. (6 marks)
- (b) Consideration needs not be adequate but needs to be sufficient. Discuss this statement and examine the rules governing consideration under law of contract. (8 marks)

QUESTION THREE

- (a) A contract determines circumstances in which promises made by parties shall be legally binding on them. Explain six essentials of a valid contract. (12 marks)
- (b) Custom is the oldest source of law. Explain the criteria which must be satisfied before a custom can be applied as a source of law. (8 marks)

QUESTION FOUR

- (a) The high court has jurisdiction over all matters whether original, appellate or supervisory except for those matters falling under the jurisdiction of courts contemplated in article 162(2) of the constitution. Discuss. (10 marks)
- (b) Explain three remedies for breach of a contract. (6 marks)
- (c) If offeror (A) makes an offer in a letter and thereafter encloses both the letter and a cheque in the same envelope, the offeree (B) upon receipt of the letter and the cheque will need to communicate his acceptance to the offeror in order for a valid contract to come into existence. Explain this statement in light of the rules governing an acceptance and revocation of an offer made by post. (4 marks)
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