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University Examinations 2023/2024

SECOND YEAR FIRST SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF COMMERCE, BACHELOR OF BUSINESS ADMINISTRATION AND BACHELOR OF EDUCATION

BFB 3201: BUSINESS LAW

DATE: DECEMBER 2023

TIME: 2 HOURS

INSTRUCTIONS: *Answer question one and any other two questions*

QUESTION ONE (30 MARKS)

- (a) Define the term law and describe four purposes of law in the society. (5 marks)
- (b) Distinguish the following as used in law:
 - i) Ratio Decidedi and Stare decisis. (2 marks)
 - ii) Substantive and procedural law (2 marks)
- (c) Discuss five necessary conditions for a valid ratification in the law of agency. (5 marks)
- (d) On 20th January 2021, Joseph Mita entered into a written agreement with Zoa Juma in which Zoa Juma agreed to smuggle some goods in to the county for Joseph Mitaby the end of March 2021. Joseph Mita promptly paid Zoa Juma the agreed consideration of shs. 600,000 in full, but Zoa Juma has defaulted on the deal. Joseph Mita is aggrieved and intends to sue Zoa Juma.



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Analyse the legal principles applicable in the above case and advise Joseph Mita accordingly (6 marks)

(e) With reference to the law of persons distinguish a 'corporation' from an 'unincorporated association' (5 marks)

(f) Describe five advantages of using mediation in reaching a settlement in commercial disputes

QUESTION TWO (20 MARKS)

(a) Identify the factors that undermine the rule of law in a country. (6 marks)

(b) Msafiri transporters employed Dickson Makanyanga as a driver to transport passengers from Nairobi to Busia while on the way; Dickson Makanyanga drove the bus at high speed while negotiating a sharp corner. As a result, he lost control of the bus and caused an accident. A total of twenty passengers were injured while three passengers died on the spot. Judy Naliaka, who sustained a head injury and was hospitalized for a long time, has sued for compensation but Msafiri transporters have denied liability. Discuss the legal principles that Judy Naliaka may rely on in her suit against Msafiri transporters (6 marks)

(c) Discuss the doctrine of "caveat emptor" and its exemptions, as used in the context of the law governing sale of goods. (8 marks)

QUESTION THREE (20 MARKS)

a) Explain each of the following rules of statutory interpretation

- i. *Noscitur a sociis* (3 marks)
- ii. *Eiusdem generis rule* (3 marks)
- iii. *Mischief rule* (2 marks)

b) The "Baite Murume," a newspaper of wide circulation recently published an educational article in one part of its columns "the close structural resemblance between man and the



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gorilla." It illustrated the point by two photographs. One was a man in a wrestling pose with the caption "Hamisi Nduati not fundamentally different from the gorilla in physique." Mr. Hamisi Nduati has realized that the photograph was taken in one of his wrestling contests which he won. He alleges that he enjoys international reputation as an outstanding wrestler and he therefore argues that he has been defamed. He comes to you for legal advice. Advise him. (7 marks)

c) Describe five essentials of a valid bill of exchange. (5 marks)

QUESTION FOUR (20 MARKS)

a) Explain six sources of law in Kenya. (6 marks)

b) What is meant by the expression "contractual capacity"? Illustrate your answer with use of appropriate examples. (3 marks)

c) Annan agreed to paint Angela's house at an agreed price. When Annan had finished the work. Angela discovered that although most of the painting was satisfactory, Annan had forgotten to apply a coat of gloss paint on one of the doors. Annan fell ill and could not complete the work. Angela refused to pay Annan the contractual price, claiming that the contract had not been fully executed and that therefore he was entitled to be paid only a reasonable sum for the work he had actually undertaken. This, Annan claimed, was much less than the contract price.

Advise Annan. (6 marks)

d) The tort of trespass might be committed on persons, land or goods. With reference to the above statement, describe the following:

(i) Three types of trespass on persons. (3 marks)

(ii) Two types of trespass on goods. (2 marks)



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QUESTION FIVE (20 MARKS)

a) Jasmin Mrongo, an accounts clerk at Cautious Company Ltd., prepared a cheque for Peter Kraft's signature. Peter Kraft was not a duly authorised signatory of Cautious Company Ltd. The amount on the cheque appeared in figures as Sh.5,000 but was not written in words. Peter Kraft signed the cheque and gave it to Jasmin Mrongo who secretly altered the amount to read Sh.95,000 and also wrote "ninety five thousand shillings" in words. Jasmin Mrongo then encashed the cheque at Mzalendo Bank, the company's bank. Jasmin Mrongo gave Peter Kraft Sh.5,000 and retained Sh.90,000 which she used to purchase a plot. Cautious Company Ltd. has discovered the above facts and intends to sue Mzalendo Bank for negligence. Analyse the legal principles applicable in the above case and advise Cautious Company Ltd. (6 marks)

b) Explain four vitiating factors in relation to the law of contracts. (8 marks)

c) Describe the merits of delegated legislation as a source of law in Kenya (6 marks)



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