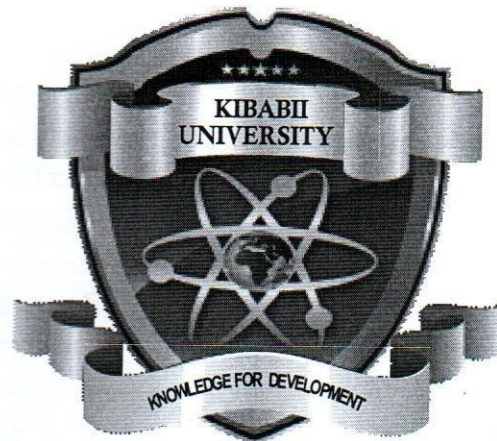


KIBABII UNIVERSITY



UNIVERSITY EXAMINATIONS 2021/2022 ACADEMIC YEAR FIRST YEAR SECOND SEMESTER

SPECIAL/SUPPLEMENTARY EXAMINATION

FOR THE DEGREE OF BACHELOR OF BUSINESS MANAGEMENT

COURSE CODE: BBM 124

COURSE TITLE: BUSINESS LAW 1

DATE: 29/07/2022

TIME: 8.00 – 10.00AM

INSTRUCTION TO CANDIDATES

- 1) The paper contains **FIVE** questions
- 2) Attempt **THREE** questions
- 3) Question **ONE** is Compulsory

KIBU observes **ZERO** tolerance to examination cheating

QUESTION ONE

Kesho is a driver employed by Hesabu & company, a firm of accountants in Machakos town. He was instructed by his employer to return some accounting documents to a client whose account had been audited by the firm. Instead of going directly to the client's office, Kesho decided to rush home and check on the conditions of his wife who was sick. While proceeding to the client's office after seeing his wife, the vehicle which was driven by Kesho collided with a vehicle belonging to Wazalendo Ltd, causing a damage estimated by the owner at ksh. 100,000. The insurance policy for the vehicle had expired the previous day and had not been renewed, the police report on the accident states that, before the accident occurred, Kesho had been over speeding and had lacked mental concentration owing to his anxiety over his wife's deteriorating health. "Hesabu & company have received a letter from Wazalendo Ltd demanding admission of liability, failing which they will file a suit against Hesabu & company.

a) Hesabu & company now seek your advice on the following matter;

- i) Would they be liable if sued by Wazalendo Ltd? Explain your answer. (5 marks)
- ii) If they admit liability and pay Wazalendo Ltd the kshs. 100,000 demanded, would they be able to recover that money from Kesho? Explain your answer. (5 marks)

b) State and explain statutory provision governing the application of African customary law in Kenyan courts (10 marks)

c) Section 23(1) of the sale of goods act (cap 31) provides that "where goods are sold by a person who is not the owner thereof, and who does not sale them under the authority or with consent of the owner, the buyer acquires no better title to the goods than the seller had". Explain four circumstances under which this provision does not apply (10 marks)

QUESTION TWO

- a) Tajiri's shop is worth sh. 2,000,000 but it is insured against fire for sh.200, 000. The shop was recently damaged by a fire to the extent of ksh. 100,000.
 - i. Explain the legal position of the situation. (6 marks)
 - ii. Would your answer be different if the policy contained a "subject to average" clause? (6 marks)
- b) Summarize the rules governing the passing of property in a contract for the sale of goods under the sale of Goods Act (cap. 31, law of Kenya). Cite relevant cases. (8 marks)

QUESTION THREE

- a) Explain the four characteristics of a negotiable instrument (8 marks)
- b) Highlight four rights of a guarantor against a creditor under a contract of guarantee. (6 marks)
- c) List and explain three types of bailment. (6 marks)

QUESTION FOUR

- a) In relation to the law of carriage of goods, explain four circumstances under which a common carrier will NOT be liable for loss or damage to goods handed over to him for carriage. (8 marks)
- b) Outline six ways in which a partnership may be dissolved without any order of the court (12 marks)

QUESTION FIVE

- a) Distinguish between a contract of guarantee and a contract of Indemnity (4 marks)
- b) G and B go into a shop. G says to the shopkeeper, "let him (B) have the goods, and if he does not pay you, I will."

Would it make any difference in your answer if G said to the shopkeeper, "let him (B) have the goods, I will see to it that you are paid." (6 marks)

- c) Identify and explain the implied terms of Hire- Purchase Agreement? (10 marks)