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**UNIVERSITY EXAMINATIONS**

**MAIN EXAMINATIONS**

**2021/2022 ACADEMIC YEAR**

**FIRST YEAR SECOND SEMESTER**

**FOR THE DEGREE OF BACHELOR OF COMMERCE**

**COURSE CODE: BCB 123**

**COURSE TITLE: BUSINESS LAW I**

**DATE: 19/04/2023**

**TIME: 9:00-11:00AM**

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**INSTRUCTIONS TO CANDIDATES**

- 1) Answer Question **ONE**(Compulsory) and **ANY OTHER TWO** Questions
- 2) Candidates must hand in their answer booklets to the invigilator while in the examination room
- 3) Credit is given for legibility, clarity and use of relevant examples
- 4) Question **ONE** is **30 marks** while Questions **2-5** carry **20 marks** each
- 5) Clearly write your **Registration Number** on each answer sheet used

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**TIME: 2 Hours**

**KIBU observes ZERO tolerance to examination cheating**

**QUESTION ONE.**

a)

*Rylands v Fletcher* [1868] LR 1 Exch 265; LR 3 HL 330

The defendants used reputable engineers to build a reservoir on their land to accumulate water. While the reservoir was under construction, the engineers came across old mine shafts which they failed to seal properly. When the reservoir became full of water, it escaped along the old shafts into the mine owned by the claimant causing harm.

Required;

Legal issues in this case and your verdict

[10 marks]

b)

In the high court of Kenya at Nakuru; Civil case no. 147 of 2012

*Dennis N Openda vs Anwarali & Brothers (1) and Driver Andrew Namenge(2)*

**Plaintiff submissions;**

He was a non-fare paying passenger was seriously injured on the 21<sup>st</sup> July 2021 when the Truck c/o Anwarali & Brothers he was travelling in got involved in an accident with another along the Nakuru-Eldoret road near Ngata bridge. Plaintiff stated that he was then 37 years old, was healthy and active gentle man and as a result of the accident he suffered loss and damage. He prayed for general damages for pain and suffering, loss of earning capacity, future medical expenses and special damages in the tune of shs 337,529/=.

Required;

Explain judgement to this case.

[10 marks]

c) Attempt the following

i. Explain the following maxims of law; *Stare-decisis*.

[2 marks]

ii. Discuss defences to the tort of defamation

[2 marks]

- iii. Highlight TWO disadvantages of a partnership form of business [2 marks]
- iv. Explain when to initiate a CODICIL [2 marks]
- i. Show the meaning of Privity of a contract [2 marks]

**QUESTION TWO.**

a)

Show FOUR reasons why a contract may be discharged. [10 marks]

b)

Highlight the contents of the memorandum of association. [10 marks]

**QUESTION THREE.**

a)

Discuss the meaning and advantages of delegated legislation. [10 marks]

b)

Show distinctions of the following;

i. Crime and a tort [ 5 marks]

ii. Public Company and Sate Owned company [ 5 marks]

**QUESTION FOUR**

a)

With a case of your choice explain the Privity of Contract rule [10 marks]

b)

Use a case issue to explain VICARIOUS LIABILITY. [10 marks]

**QUESTION FIVE**

a)

The Management of Carnivore Restaurant, want to have a grand celebration for its 25th convocation. They entered into a contract with AKOTHEE, a famous singer to perform for two hours nightly for three nights during the said celebration. If Akothee fulfils her contract, she will receive a sum of KES 250000. During the celebration, Akothee lost her voice and could only perform for three (3) hours only.



Required; Based on the facts given above, please solve the stated problems according to the provisions of applicable statute and by stating the legal rights and liabilities of each party involved. [10 marks]

b)

Discuss the punishments provided under the penal code of Kenya for a crime committed. (10 marks).