****

**GARISSA UNIVERSITY**

**UNIVERSITY EXAMINATION 2020/2021 ACADEMIC YEAR 0NE**

**SECOND SEMESTER EXAMINATION**

**SCHOOL OF BUSINESS AND ECONOMICS**

**FOR THE DEGREE OF BACHELOR OF BUSINESS MANAGEMENT**

**COURSE CODE: BBM 107**

**COURSE TITLE: BUSINESS LAW I**

**EXAMINATION DURATION: 2 HOURS**

**DATE: 07/04/2021 TIME: 12.00-2.00 AM**

**INSTRUCTION TO CANDIDATES**

* **The examination has FIVE (5) questions**
* **Question ONE (1) is COMPULSORY**
* **Choose any other TWO (2) questions from the remaining FOUR (4) questions**
* **Use sketch diagrams to illustrate your answer whenever necessary**
* **Do not carry mobile phones or any other written materials in examination room**
* **Do not write on this paper**

**This paper consists of THREE (3) printed pages *please turn over***

**QUESTION ONE (COMPULSORY)**

1. The plaintiff’s husband, a passenger in the defendant’s bus died when the bus overturned. The accident was a caused by breakage of the main springs of the bus, which put the driver into a position of emergency. The bus was traveling along a straight stretch of road at the time of the accident, and there was a lapse of time between the breaking of the spring and the overturning of the bus. Advice the plaintiff **[4 Marks]**
2. “Trespass by cattle of a person is treated as if the person has committed the trespass and thus liable for the act of his cattle. Discuss the main defenses in tress pass to land [**5 Marks]**
3. Advice Abdi whether or not action can be brought in tort against the Government on the following grievances which he has:

(i). that a magistrate in a certain court made remarks that were defamatory to Abdi when passing sentence on three accused persons while Abdi had nothing to do with the case; **[1Mark]**

(ii). that officers of the Government trespassed on Abdi’s land without lawful excuse ten years ago; **[1Mark]**

(iii). That **X**, an independent contractor while constructing a road for the Government, caused nuisance on Abdi’s homestead by keeping stones thereon.  **[1Mark]**

1. What is the position as to vicarious liability where the following relationship exist?
2. Master and servant **[2 Marks]**
3. Employer and independent contractor **[2 Marks]**
4. (i). What is ‘intestacy’ under the Law of Succession Act Cap 160? **[1Mark]**

(ii). Awuor built a reservoir on his land for the purpose of supplying water to his mill. The site was a disused coalmine, with passages connecting to the adjoining mine that belonged to the Farouk. The defendant did not know this, so when his reservoir filled up the water escaped through the passages and flooded the plaintiff’s coalmines causing extensive damage.

1. Give a ruling for this case **[2 Marks]**
2. Discuss the limitations of this ruling **[3 Marks]**
3. **List** and **Explain** the elements of a valid contract **[14Marks]**

**QUESTION TWO [20MARKS]**

1. Discuss the general defences that are available to a defendant in an action in tort. **[14Marks]**
2. (i). What is the meaning of “goods” in the Sale of Goods Act (Cap.31)? **[1Mark]**

(ii). Write short notes on

1. Testate Succession **[3 Marks]**
2. Intestacy **[4 Marks]**

(iii). **B** bought from **P**, the owner of a certain land, the bark of wattle trees growing on the land together with the right to remove it. **P** sold the land to **T** who had knowledge of the sale of wattle bark. **T** resold the land to X without any reference to prior sale of the bark. **X** prevented B from removing the bark. **Advice B [2Marks]**

**QUESTION THREE [20MARKS]**

1. On what grounds may a marriage be declared null and void by the High Court under the Matrimonial Causes Act(Cap.152)? **[16Marks]**
2. What are the differences between a registered company and a partnership? **[4Marks]**

**QUESTION FOUR [20MARKS]**

1. (i). Distinguish between, **Contracts of Record, Simple contract** and **Specialty**

**Contracts [6Marks]**

 (ii). **Aden** has lent **Butali** Sh.6,000 which is due for repayment on 1st May. Aden asks Butali on 1st April for immediate repayment because he wants to pay a deposit for a piece of land he is buying in Thika. Butali replies that he has no money. Whereupon Aden promises that if Butali can give him Sh.5,500 immediately, he would accept the amount in full settlement of the debt. Butali then pays Shs. 5,500. Would Aden be able to sue for the balance of Shs.500?  **[2Marks]**

1. Write short notes on the following:
2. Unliquidated damages **[2Marks]**
3. Res ipsa loquitor  **[2Marks]**
4. Volenti non fit Injuria  **[2Marks]**
5. Nemo dat quod non-habet **[2Marks]**
6. De minimis Non Curat lex **[2Marks]**
7. what is meant by the doctrine of Damnum sine injuria in relation to law of tort **[2Marks]**

**QUESTION FIVE [20MARKS]**

1. What is meant by the term “sources of law”? discuss two sources of law **[4 Marks]**
2. Briefly outline and elaborate ways through which an agency relationship can be brought to an end **[10 Marks]**
3. Discuss the extent to which unwritten law is a source of law in Kenya. **[6Marks]**