



**ALUPE UNIVERSITY
COLLEGE**

Bastion of Knowledge...

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ACADEMICS, RESEARCH AND STUDENTS' AFFAIRS

UNIVERSITY EXAMINATIONS

2021 /2022 ACADEMIC YEAR

1ST YEAR 2ND SEMESTER REGULAR EXAMINATION

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

COURSE CODE: BBM 121

COURSE TITLE: BUSINESS LAW

DATE:10/06/2022

TIME: 2.00-5.00pm

INSTRUCTION TO CANDIDATES

- SEE INSIDE

PLEASE TURN OVER

INSTRUCTIONS TO CANDIDATES

- i. Answer Question one and any other two questions*
- ii. All working must be shown*
- iii. Do not write on the question paper*

QUESTION ONE (30 MARKS)

- a) What do you understand by the phrase "Source of law"? (2 Marks)
- b) Identify the various sources of law of Kenya. (8 marks)
- c) Mwangi has stolen some goods from Simiyu. The police prosecute Mwangi for theft and Simiyu sues him for the return of the goods.
 - (i) Explain under what law the action by the police will be based. (2 marks)
 - (ii) In this action by the police, state what Mwangi will be called. (2 marks)
 - (iii) Under what law would the action brought by Simiyu be and what would Simiyu be called? (2 marks)
- b) It is always necessary to communicate acceptance of an offer to the other party to the contract. Explain whether or not you agree with the above statement. (6 marks)
- c) Arnold wrote to Ben offering to sell him a consignment of goods. In the letter he advised Ben to telephone his decision to Cecilia, Arnold's wife. Explain whether there is a valid contract between Arnold and Ben in the following situations:
 - (i) Ben does not telephone Cecilia but writes to Arnold accepting his offer. (4 marks)
 - (ii) Ben sends a telex to Arnold accepting the offer. (4 marks)

QUESTION TWO (20 MARKS)

Mr. Ouma, a car dealer sells second hand cars. On Thursday last week, he placed an advertisement in a daily newspaper which stated the following: "Once in a lifetime, opportunity to own a one year old Nissan Caravan, low mileage, Kshs. 500,000 cash. The offer is valid for only one day and the car will go to the first person who accepts it." When Mr. Bull saw the advertisement, he immediately posted a letter of acceptance of Mr. Ouma's offer. Mrs. Caro also saw the advertisement and came to inspect the car after which Mrs. Caro offered Mr. Ouma a cheque of Kshs. 500,000. However, Mr. Ouma refused to accept the cheque stating that another

potential buyer had already offered to buy the car. Later in the day Ms Don, another interested buyer telephoned Mr. Ouma informing him that she was willing to buy the car but asked Mr. Ouma if he would keep the offer open until she could go to her bank to obtain a loan. Mr. Ouma accepted the request. However later, in the day, Mr. Eric, another potential buyer said that he would pay Sh. 600,000 in cash for the car. Mr. Ouma agreed to sell the car to Mr. Eric. On Monday morning, Mr. Ouma received Mr. Bull's letter of acceptance. At the same time, Mr. Eric returned to complete the transaction. However, in the afternoon Mr. Eric telephoned Mr. Ouma to say that he had second thoughts and he no longer wished to purchase the car.

Citing relevant decided cases where applicable, explain the legal principles in the case in relation to:

- | | | |
|-----|-----------|-----------|
| (a) | Mr. Ouma | (4 marks) |
| (b) | Mr. Bull | (4 marks) |
| (c) | Mrs. Caro | (4 marks) |
| (d) | Ms. Don | (4 marks) |
| (e) | Mr. Eric | (4 marks) |

QUESTION THREE (20 MARKS)

- (a) Explain four defences which may be offered by a defendant to an action for trespass to the person. (12 marks)
- (b) Mrs. Karanja and Mrs. Waithaka are neighbours. Their sons, Mwaura Karanja and Mwangi Waithaka, had a fight and Mwangi was hurt. In annoyance, Mrs. Waithaka hurled a stone at Mrs. Karanja but the stone did not hit Mrs. Karanja. Mrs. Waithaka rushed to her house and came out with a bucket of water which she splashed on Mrs. Karanja making her clothes wet. Mrs. Karanja intends to sue Mrs. Waithaka., Advise Mrs. Karanja on the kinds of tort that she may seek redress from. (8 marks)

QUESTION FOUR (20 MARKS)

- a) In relation to the law of tort, explain what constitutes the tort of negligence. (4 Marks)
- b) Identify the tort that may have been committed in the instances listed below and explain the possible defenses available to the defendant.
- (i) Mrembo visited Beutex shop to buy cosmetics. Owing to the slippery nature of the floor, she slid and broke her leg. (8 Marks)
- (ii) Msafiri boarded a public service vehicle as a paying passenger. A worn out tyre of the bus burst and Msafiri was injured. He went to hospital where he was treated and discharged. Five years later Msafiri brings action against owners of the vehicle for recovery of damages. (8 Marks)

QUESTION FIVE (20 MARKS)

- a) In relation to the law of succession:
- (i) Define a will; (1 marks)
- (ii) Explain four formalities of a will. (8 marks)
- b) Outline five classes of persons who may be classified as dependants for purposes of provision under the Succession Act. (5 marks)
- c) In relation to the law of Succession, explain the factors that the court will consider when making provisions for dependants not provided for in a will. (6 marks)