



STRATHMORE UNIVERSITY
FACULTY OF COMMERCE
Bachelor of Commerce
END OF SEMESTER EXAMINATIONS

BCM 1104: BUSINESS LAW

DATE: 19th December 2006

TIME: 2 Hours

INSTRUCTIONS

ANSWER QUESTION ONE AND ANY OTHER TWO QUESTIONS.

Question 1

(a) Briefly define the following:

- i) Per Incuriam
- ii) Proper Law
- iii) Discharge of contract
- iv) Defamation
- v) Juristic persons

(10 marks)

(b) Briefly explain any five rules of acceptance of an offer.

(10 marks)

(c) Elina and Mary work for Mrs Mjomba at a travel agency called Tangatanga Travel Agents. Elina receives a job offer from Mrs Pesa who owns a very successful travel agency called Safiri Travel Agents where she will be earning double what she earns at Tangatanga Travel Agents. Mary is very jealous of Elina and tells Mrs Mjomba, who is not around the office very often, that Elina has been coming late to work everyday for the last one month and has also been sending clients to other travel agents where her friends work. This is actually not true as Elina is a very hardworking and loyal employee. However, Mrs Mjomba believes Mary because Mary is her personal assistant who has worked for her for a very long time and has helped her get rid of many bad employees in the past. Mrs Mjomba feels that she has a moral obligation to inform Mrs Pesa of Elina's alleged misconduct. Mrs Mjomba fires Elina and Mrs Pesa refuses to employ Elina after getting the negative information about Elina from Mrs Mjomba. Advise Elina.

(10 marks)

TOTAL 30 MARKS

Question 2

(a) Explain the advantages and disadvantages of case law. **(10 marks)**

(b) Moses and Peter are neighbors in an upmarket Nairobi estate. They have had a long going argument concerning the fence that divides their properties. Moses claims that three years ago Peter moved the fence and encroached on his property. Moses sued Peter but lost the case and ended up paying hefty legal fees. Moses has openly been heard to declare that he hates Peter so much that he would not mind if he died. One Sunday evening Peter's house caught fire and Peter was trapped inside. His cries for help were heard by Moses. Moses walked out of his house, saw what was happening and calmly walked back to his house saying to himself 'I am not going to help him. Let him die'. Peter was eventually rescued by a good Samaritan who was passing by. The good Samaritan had called the fire brigade who promptly came and rescued Peter in the nick of time. Peter suffered serious burns and was hospitalized for over three months. His hospital bill came to over Kshs 300,000 and he is unable to use his right hand. He wants to sue Moses to recover his hospital bill as well as for damages for pain and suffering because he claims that if Moses had rescued him at the time he heard his screams he would not have suffered any injury at all. Advise Moses.

(10 marks)

TOTAL-20 MARKS

Question 3

(a) With the use of case law, write brief notes on the following:

i) Statements preliminary to an offer. **(5 marks)**

ii) Revocation of offer. **(5 marks)**

(b) Wanafunzi University invited tenders for the supply of rice. Mr Pesa's tender was accepted. He was contracted to supply rice to the university as and when the University needed it. The contract was to be terminated by either party giving two month's notice.

i) The university did not order for any rice from Mr Pesa in the first six months of the contract. Advise Mr Pesa. **(7 marks)**

ii) Mr Pesa writes a letter dated 11th October 2006 saying that he will be unable to supply the University with rice from the 20th of October. Advise the University. **(3 Marks)**

TOTAL- 20 MARKS

Question 4

(a) "Frustration is a doctrine very rarely relied upon with success. It is in fact a kind of last ditch and it is a conclusion which should be reached rarely and with reluctance." Discuss this statement with the use of case law. **(16 marks)**

(b) Write brief notes on any two remedies for breach of contract. **(4 marks)**

TOTAL-20 MARKS

Question 5

(a) Write detailed notes on the remedies for Torts. **(15 marks)**

(b) Give an account of what a juristic person is using two relevant examples. **(5 marks)**

TOTAL – 20 MARKS