

CHUKA



UNIVERSITY

COLLEGE

UNIVERSITY EXAMINATIONS

**THIRD YEAR EXAMINATION FOR THE AWARD OF DEGREE OF
BACHELOR OF COMMERCE**

BCOM 301: BUSINESS LAW I

STREAMS: BCOM Y3S1

TIME: 2 HOURS

DAY/DATE: TUESDAY 3/4/2012

11.30 A.M. - 1.30 P.M.

INSTRUCTIONS:

1. Answer question 1 and any other two.
2. Marks may be lost for illegibility.
3. Do not write on the question paper.

QUESTION 1

- (a) "Parliamentary legislation is a better source of the Kenya law than subsidiary legislation." Discuss this statement with a view to highlighting only the positive aspects of it. [4 marks]
- (b) A proposes to have an insurance policy; B issues one to A subject to payment of premium. A does not pay premium. B files a suit to recover the premium. Will B succeed? [4 marks]
- (c) A offers by fax to purchase certain shares of B, in circumstances indicating that acceptance was to be by telegram. B faxes a letter of acceptance, which was lost. Is there a contract? [4 marks]
- (d) A horse was sent by railway from Nairobi to Kisumu. However, the owner was not present to collect it on time. The station master at Kisumu arranged for its feeding and stabling incurring an expense of Ksh.10,000/=. The station master filed a suit to recover the money and the owner of the horse refused to pay, decide. [4 marks]

- (e) Chuka University College commended a periodical publication called “Varsity Post” and engaged B to write a volume on sports activities in the college. For this purpose B was to receive the sum of Ksh.100,000 on completion of the work. When he had completed a part, but not the whole of his volume, Chuka University College abandoned the publication. B sued the college for recovery of the amount of the contract. Does the college have a defence against B’s claim? Give reasons for your answer. [4 marks]
- (f) Three weeks ago the High Court delivered a judgment in a case in which Peter was accused of mutiny in the Kenya Armed Forces. Having been convicted of the offence, he thinks the judgment was very unfair. He has come to you to advise him, do so, by stating with explanatory the nature of the court which found him guilty before the High court also did. [4 marks]
- (g) An offer may be made to the whole world and ripens into a contract when anyone comes forth and performs its conditions. (Carlill-vs-Carbolic Smoke Ball Co. 1893190256) paraphrased. Highlight the issues involved in the case. [6 marks]

QUESTION 2

- (a) Using illustrations, distinguish an offer from
- (i) An invitation to an offer [2 marks]
 - (ii) A mere expression of opinion [2 marks]
 - (iii) A declaration of intention [2 marks]
- (b) Natural persons are distinct from the juristic person although they form the juristic person. Discuss three salient features of this principle, citing the case, which promulgated it. [5 marks]
- (c) Nelson has come to your office complaining that the Kadhi Court in Meru law courts has delivered a judgment which is not complying with the law. To which court will you direct him to appeal and why? [4 marks]
- (d) What are the disadvantages of arbitration in solving disputes? [5 marks]

QUESTION 3

- (a) Briefly explain how a contract can be discharged. [10 marks]
- (b) State and explain the defenses available to a defendant under the tort of defamation. [10 marks]

QUESTION 4

(a) A person from your home area has died. It is being said that he died intestate. Explain to your family what that means and how his property devolve in the first instance.

[5 marks]

(b) F handed H a written offer. The next day F posted a withdrawal of the offer. This was posted between 12 noon and 1 pm and it did not reach him until after 5 pm. In the meantime H at 3.50 pm posted an acceptance, discuss.

[5 marks]

(c) Differentiate between express and implied contracts using clear illustrations.

[5 marks]

(d) Explain five duties an employee owes and employer.

[5 marks]
