



Scott Christian UNIVERSITY

SCHOOL OF PROFESSIONAL STUDIES

BACHELOR OF BUSINESS INFORMATION TECHNOLOGY/ BACHELOR OF LEADERSHIP AND MANAGEMENT

UNIT CODE/NAME: BBIT 316/BSL 311: BUSINESS LAW

September – December 2019/2020 End Semester Exam - Time: 2 Hours

Instructions: Answer Question ONE (Compulsory) and any other TWO questions.

QUESTION ONE

- a) Differentiate between criminal and civil law (4 Marks)
- b) An unwritten law is applied subject to a written law. Explain (3 Marks)
- c) State the elements necessary to create a valid contract. (6 Marks)
- d) The constitution is the supreme law in Kenya. Discuss? (4 Marks)
- e) In *Spellman v. Spellman (1961)*, A husband and a wife whose marriage was unhappy hoped that their relationship would improve if the husband bought her a car. The husband acquired a car on hire purchase terms and agreed that the registration book should be in the wife's name and she should take possession of the car. In spite of this arrangement, the marriage continued to be unhappy and the parties separated. The wife sued for the car. What do you think the court ruled and why? (4 Marks)
- f) One of the ways in which an agency relationship is created is by operation of the law and one of such relationship is agency by cohabitation.
At a time when the equality of sexes was not as clearly established as today and most wives looked after the common household and did not earn their own living, the common law developed the principles on Agency from Cohabitation.
At common law when a husband and wife are living together, the wife is presumed to have her husband's authority to pledge his credit for necessities, judged according to his style and standard of living. The presumption of agency rises from cohabitation, not from marriage. The presumption could, however, be rebutted by the husband.
State five arguments the husband could use to rebut action by the wife. (5 Marks)
- g) The authority of an agent can be revoked by the principal. State four circumstances in which the principal can do so. (4 Marks)

QUESTION TWO

- a) What is the general rule in a commercial agreement? (2 Marks)
- b) In *Rose & Frank Co. v. Crompton Bros Ltd (1925)*, The Rose Company made an agreement with the defendant company in which the defendants were appointed agents for the sale of paper supplied by the company. One clause in the agreement was:

"This agreement is not entered into as a formal or legal agreement and shall not be subject to legal jurisdiction in the law courts".

- One on the parties sued on the basis of this contract. Did the above clause affect the courts decision on the legality of the contract?. What was the courts' decision? (4 Marks)
- c) Define an offer and differentiate it with an invitation to make an offer (3 Marks)
- d) An Offer can come to an end / be terminated in three ways. State and explain each of the three ways. (6 Marks)

QUESTION THREE

- a) The law of the state is divided into two main categories. Identify and define the two categories (6 Marks)
- b) Identify and describe the fields of law in each of the categories above (9 Marks)

QUESTION FOUR

- a) A contract, which is illegal, is normally unenforceable. The illegality may be present in various stages of the contract. State the stages involved and give example of an illegality in each stage. (4 Marks)
- b) The validity of an acceptance of an Offer is determined along certain rules. State and explain the rules (6 Marks)
- c) There are various forms of currency that have emerged including crypto currencies and other mediums of financial transacting like Mpesa/Airtel money etc. Should these new inventions be legally regulated or left to regulate themselves?. Discuss (5 Marks)

QUESTION FIVE

- a) In Donoghue V Stevenson (1932) which is the case that established the tort, Mrs. Donoghue consumed part of a drink containing a decomposed snail while in a public bar in Paisley, Scotland and claimed that it had made her ill. The snail had not been visible, as the bottle of beer in which it was contained was opaque. Neither the friend who bought the bottle for her, nor the shopkeeper who sold it, were aware of the snail's presence. Mr. Stevenson was the manufacture of the product.

The ground which Mrs. Donoghue was to sue the manufacturer was in doubt because; she could not sue Mr. Stevenson for damages for breach of contract because there was no contract between them, and neither could she sue the shopkeeper because it was close to impossible for him to be aware of the presence of the snail and the same for the rather kind friend who purchased the bottle. Mrs. Donoghue sued the manufacturer Mr. Stevenson, for damages on ground of negligence.

To establish her claim, Lord Macmillan stated, *inter alia*: "The law takes no cognizance of carelessness in the abstract. It concerns itself with carelessness only **where there is a duty to take care** and **where failure in that duty** has caused **damage**. In such circumstances **carelessness assumes the legal quality of negligence...**"

This statement shows that the tort of negligence has three ingredients which to succeed in an action the plaintiff must show. Identify and discuss the three ingredients. (7 Marks)

- b) Tort of trespass is divided into three areas. State and explain the three. (3 Marks)
- c) A contract may be discharged or brought to an end through various ways. State the various ways. (5 Marks)