# SCHOOL OF PROFESSIONAL STUDIES

## BACHELOR OF BUSINESS ADMINISTRATION

## UNIT CODE/NAME: BBA108 BUSINESS LAW

**January – April 2018/2019 End Semester Exam - Time: 2 Hours**

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

**QUESTION ONE**

a) The constitution is the supreme law in Kenya. Discuss? **(4 Marks)**

b) Certain crimes are immoral however, not all forms of immoral conduct are illegal. Explain this statement with examples. **(5 Marks)**

c) Law may not necessary be justice. Discuss. **(5 Marks)**

d) Explain the doctrine of *stare decisis*. **(4 Marks)**

e) 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. **(12 marks)**

**QUESTION TWO**

a) For an agreement to be legally recognized and enforceable, it is essential that certain legal rules be met. Discuss **three** of those rules **(6 marks)**

b) Contracts may be concluded in written or oral form. However, some contracts must be made in writing otherwise they are void. State and explain **four** contracts that must be made in writing. **(6 marks)**

c) Some contracts are only actionable in court if there is written evidence. State **three** of such contracts. **(3 marks)**

**QUESTION THREE**

a) Differentiate between unenforceable contracts, void contracts, voidable contracts and illegal contracts. **(6 marks)**

b) A contract, which is illegal, is normally unenforceable. The illegality may be present in various phases of the contract. Discuss. **(5 marks)**

c) State and explain four contracts with no legal effect. **(4 marks)**

**QUESTION FOUR**

a) Define an agent and explain the types of agents. **(4 marks)**

b) . The power of an agent is derived either from the authority vested in the agent, by the principal, or from operation of the law. Discuss. **(6 marks)**

c) The effect of a contract made by an agent varies according to the circumstances under which the agent contracted. Explain **three** of those circumstances. **(5 marks)**

**QUESTION FIVE**

**a)** Differentiate between defamation and tort **(4 marks)**

b) State and explain four functions law serves. **(4 Marks)**

c) Differentiate between Civil and Criminal law. **(4 Marks)**

d) Tort of trespass is divided into three areas. State and explain the three. **(3 marks)**