



KIBABII UNIVERSITY COLLEGE

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Knowledge for Development

UNIVERSITY EXAMINATION

1ST YEAR 2ND SEMESTER 2013/2014

MAIN EXAMINATION

COURSE CODE: MBA 812

COURSE TITLE: BUSINESS LAW

DATE: 11th August, 2014

TIME: 5.00PM – 8.00PM

INSTRUCTIONS

- Answer question one and any other three questions

QUESTION ONE

- a) Masinde Kamau has been working for Ushamba Ltd for twenty five years. Recently he got a letter terminating his employment contract. The letter did not state the reasons for the action. He feels aggrieved and has come to you for advice on:
- i) Which court to go to seek remedies since he feels he was unfairly terminated? (2 Marks)
 - ii) The issues the court will look at to determine if the termination was unfair (8 Marks)
 - iii) Reasons for dismissal that the law deems valid (10 Marks)
 - iv) If the termination is deemed unfair, factors that the court may consider in recommending remedies to Masinde Kamai or unfair termination under the Employment Act of 2007. (8 Marks)
 - v) Critically examine the sources of law in Kenya (12 Marks)

QUESTION TWO

- a) A group of investors have approached you for advice on whether to establish a private Limited liability company or a public one. They seem inclined to having a private one but need expert opinion to back their choice. Advice (10 Marks)
- b) One of the essential elements of a contract is consideration. With reference to contract law, discuss five rules related to consideration (10 Marks)

QUESTION THREE

- a) Simiyu owns many prime business premises in Bungoma town. Because of his busy schedule he has contracted Wateja consultants as his letting agents for the premises. He however, wishes to be informed of:
- i) Duties of the agent as provided for by the law (5 Marks)
 - ii) How the agency contract may be terminated (5 Marks)
- b) Maua and Kim want to establish a partnership to start an import and export business. They have sought the services of Ukweli & Co. Advocates to draft for them a partnership deed. Discuss the contents of such a document. (10 Marks)

QUESTION FOUR

- a) Tortious liability arises from the breach of duty fixed by the law and the breach is redress able in a court of law. There are however instance when depending on the defendants' argument, certain justifications present in a case may prevent a given tortuous act from being actionable in the courts. Discuss such general defenses (12 Marks)
- b) Explain instances when a bank may refuse to honor a cheque. (8 Marks)

QUESTION FIVE

- a) Discuss implied terms that are found in contracts of sale of goods (10 Marks)
- b) Although cheques are seen as bills of exchange certain characteristics distinguish the two. Discuss (10 Marks)