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**GARISSA UNIVERSITY**

**UNIVERSITY EXAMINATION 2020/2021 ACADEMIC YEAR ONE**

**SECOND SEMESTER EXAMINATION**

**SCHOOL OF BUSINESS AND ECONOMICS**

**FOR THE DEGREE OF BACHELOR OF BUSINESS MANAGEMENT**

**COURSE CODE: BBM 125 (REG)**

**COURSE TITLE: BUSINESS LAW**

**EXAMINATION DURATION: 2 HOURS**

**DATE: 24/08/2021 TIME: 3.00-5.00 PM**

**INSTRUCTION TO CANDIDATES**

* **The examination has FIVE (5) questions**
* **Question ONE (1) is COMPULSORY**
* **Choose any other TWO (2) questions from the remaining FOUR (4) questions**
* **Use sketch diagrams to illustrate your answer whenever necessary**
* **Do not carry mobile phones or any other written materials in examination room**
* **Do not write on this paper**

**This paper consists of THREE (3) printed pages *please turn over***

**QUESTION ONE (COMPULSORY)**

1. Mrs Amina was an aspirant for the position of member of county assembly in the just concluded election. During the campaign, her competitor Mr Hassan termed her as a person who could not be trusted with leadership since she was of ‘loose morals.’Mrs Amina felt aggrieved and decided to sue.
2. Why do you think that Mrs Amina is justified to sue? **(4 marks)**
3. Describe any three remedies available to Mrs Amina. **(6 marks)**
4. The Supreme Court of Kenya is the highest court of the land. Identify two cases that fall under its jurisdiction **(2 marks)**
5. Distinguish between the following terms
6. An offer and Invitation to treat. **(2 marks)**
7. Law and Morality **(2 marks)**
8. Discuss the exception to the law maxim **"NEMO DAT QUOD NON HABET" (8 marks)**
9. An employee is a person who works under a contract of service and not a contract for services. In view of the common law conception, explain three tests that can be applied to determine the existence of a contract of service. **(6 marks)**

**QUESTION TWO.**

1. An otherwise valid contract may be vitiated by a number of factors. Explain four such factors that may vitiate a contract. **(10 marks)**
2. Peter is truck driver ferrying vegetables from Nakuru to Mandera. He is under firm instructions to deliver the vegetables to Hassan in Mandera. At common law under commercial agency of necessity, discuss three circumstances under which Peter may act outside this instruction. **(10 marks)**

**QUESTION THREE**

1. Explain in detail any three ways through which an employment contract may be terminated.

**(10 marks)**

1. Fatuma was the presiding officer in Dujis constituency. She wrongfully refused to register a properly tendered vote of the plaintiff (Mutua) who was a legally qualified voter. In spite of this, Mutua’s candidate emerged the winner. Mutua decided to sue Fatuma. Discuss the law maxim on which Mutua can base his case. **(10 marks)**

**QUESTION FOUR**

1. Explain your understanding of the term ‘vicarious liability.’ **(4 marks)**
2. i) Discuss the legal principle in the Rule in *Rylands Vs. Fletcher* (1866) **(8 marks)**

ii) Explain the defenses available to a person sued in an action brought against him under this rule.  **(8 marks)**

**QUESTION FIVE**

1. Peter is a first year student at Garissa University. During one of the weekends Peter joined a friend, Mr Chiloba for a drink at Mombasa Raha bar in Mororo. Later in the night after a number of drinks, Peter asked Chiloba to take him back to the university in his car. Mr Chiloba was reluctant to drive indicating that he is too drunk to drive. However, peter insisted that he should be driven back to university. Reluctantly, Mr Chiloba accepted. Three kilometers into their journey, the car landed into a ditch and Peter was seriously injured. Later on after medication, Peter sued Chiloba for compensation. Discuss the defence that can be applied by Mr Chiloba  **(11 marks)**
2. Discuss the various categories of trespass to the person. **(9 marks)**