



KISII UNIVERSITY
UNIVERSITY EXAMINATIONS

FIRST YEAR EXAMINATION FOR THE AWARD OF
THE DEGREE OF BACHELOR OF LAWS
FIRST SEMESTER, 2023/2024
(AUGUST-DECEMBER, 2023)

LLBK 112: LAW OF TORTS

STREAM: Y1 S1

TIME: 2 HOURS

DAY: THURSDAY, 12:00 – 2:00 PM

DATE: 07/12/2023

INSTRUCTIONS

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE (COMPULSORY) and any other TWO questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

QUESTION ONE

Phil, a scientist with KEMRI decides to establish a home laboratory in Nyamache. He bought chemicals into his home lab and experiments with them, with a view to discovering a new chemical for pest control. Bridgitte, Phil's neighbor, engages in poultry farming. Phil's lab has a single window that faces Bridgitte's poultry farm. Brigitte is hoping to make a kill by selling her chicken during Christmas during the high demand. While conducting a specific experiment, fumes escaped his laboratory. The fumes caused half of Bridgitte's chicken to die. Upset, Bridgitte walked into Phil's land and called him a 'mad scientist' in the presence of his neighbors. Phil annoyed at the insult in front of his neighbors who held him in high esteem, slapped Bridgitte who had carried a bucket of water for her chicken, in turn poured the water on Phil. The neighbors then rushed and separated the two.

- Identify the various causes of action that arise from the above. (20 marks)**
- Identify any defenses and remedies available to both of them. (10 marks)**

QUESTION TWO

Bob and Curtis are both retailers of mobile phones and accessories. They are neighbors and competitors. Last month, an order of adhesive screen protectors, phone covers and headphones were delivered to the back door of Bob's outlet. The order remained there for several days before being removed by Curtis to his store room. Bob discovered what Curtis had done. He retaliated. He disguised himself wearing a mask and burst into Curtis' outlet and brandished an imitation firearm. Bob aimed the firearm at Curtis gesturing him to move back to his storeroom. Once Curtis was in the storeroom, Bob then locked the door from the outside. Curtis was unable to escape and was eventually discovered and set free the next morning. Curtis is receiving psychiatric treatment to help him overcome his ordeal.

Discuss the various causes of action that arise from the case and remedies available. **(20 marks)**

QUESTION THREE

Jose has recently set up a factory in Mwembe. The factory operates between 8 am and 5pm. Adjacent to the factory is a hospital and school. Members of the public are concerned that the noise coming from the factory is not good for patients at the hospital and pupils at Mwembe Primary School. The area chief has tried engaging Jose on the possibility of relocating his factory but he has remained adamant.

- a) Advise the area chief on a cause of action he can pursue against Jose **(14 marks)**
- b) Identify and explain three defenses Jose may raise. **(6 marks)**

QUESTION FOUR

Marie was involved in a motor vehicle accident sometime in February 2023 at about 10pm. The accident occurred along the Nakuru-Nairobi Highway. Marie believes the accident was caused by Munga; a driver employed by Raju Construction's Limited. Munga's brakes failed causing him to ram into Marie's vehicle which was directly in front of hers. Munga's official hours are 8 am to 5pm. On the day of the accident, he did not have any authority to drive the vehicle late into the night.

Advise Marie on the liability of Munga and Raju Constructions Limited. **(20 marks)**

QUESTION FIVE

Discuss the nexus between Law of Torts and Contract Law explaining the points of departure. **(20 marks)**