



KISII UNIVERSITY
UNIVERSITY EXAMINATIONS

SPECIAL EXAMINATIONS
FIRST YEAR EXAMINATION FOR THE AWARD OF THE
DEGREE OF BACHELOR OF LAWS
FIRST SEMESTER, 2021/2022
(FEBRUARY - JUNE, 2022)

LLBK 112: THE LAW OF TORTS

STREAM: Y1 S1

TIME: 2 HOURS

DAY: THURSDAY, 8:00 – 10:30 A.M.

DATE: 28/07/2022

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

Dr. Philemon Kibass a scientist with KEMRI decided to establish a home laboratory in Mwembe. He bought chemicals into his home laboratory he experiments with the chemicals with the view to discovering a new ‘miracle ‘chemical for pest control. Mr. Lumumba his neighbor, engages in poultry farming. Dr. Kibass’s laboratory has a single window that faces the Mr. Lumumba’s poultry farm. Mr. Lumumba is hoping to make a kill by selling his chicken during Christmas during the high demand. While conducting a specific experiment, fumes escaped his laboratory. The fumes caused half of Mr.Lumumba’s chicken to die. Upset, Mr. Lumumba walked into Dr. Kibass’s land and called him a ‘ mad scientist ‘ in the presence of his neighbors . Dr. Kibass annoyed at the insult in front of his neighbors who held him in high esteem, slapped Mr. Lumumba. Mr. Lumumba who had carried a bucket of

water for his chicken, in turn poured the water on Philemon. The neighbors then rushed and separated the two warring neighbors

- (a) Identify the various causes of action that arise from the above. (20 Marks)
- (b) Identify any defenses and remedies available. (10 Marks)

QUESTION TWO

Omuchache lives next to a tanning manufacturing plant which releases negligible sulfide fumes into the environment. Omuchache is gifted with an extra sensitive nose. The plant uses pungent chemicals to treat the hides that causes him severe discomfort and continuous running nose. Others in the neighborhood and his family members do not complain of such maladies. Omuchache now considers continued habitation of his bungalow an impossibility.

Draft a legal opinion for Omuchache. (20 Marks)

QUESTION THREE

a) Explain the difference between composite and contributory tortfeasors and the liability that attach to each of the foregoing. (10 Marks)

b) Limo was walking down Uhuru highway with his headphones on. He spotted his long time crush Hilda on the opposite side of the road. He decides that this is a God sent opportunity to chat her up that he can't miss out on. He crosses the road, a hundred meters in front of the zebra crossing. At that very moment Ocheing riding his brand new Subaru convertible on turbo speeds through Uhuru Highway on the wrong side of the road to avoid the jam. Ocheing's Subaru hits Limo whose eyes were affixed on Hilda didn't notice the speeding car. Limo right leg was shattered and had to have a metallic plate screwed on this Tibia incurring a medical bill of half a million.

Advice Limo on any legal recourse he may have. (10 Marks)

QUESTION FOUR

a) Adam walked into an apartment in Upper hill formerly owned by his friend Gilbert, who had not informed him of his intention to move. Adam walked right through the door without knocking, for it was Gilbert's birthday and he intended to surprise him with a fudge birthday cake. Desmond, the current owner of the apartment chased him with a gun thinking he was his wife's clandestine lover, and in the altercation Adam fell and lost five front teeth.

Adam has approached you a prominent litigation lawyer to inform him on the possible legal action and remedies he may obtain against Desmond.

(10Marks)

b)

i) Describe the rule in *Rylands V Fletcher LR 300*. (2 Marks)

ii) The two basic requirements for the above rule. (4 Marks)

iii) Describe four exceptions to the rule above. (4 Marks)

QUESTION FIVE

Write short notes on the following:

a) Implied Malice (4 Marks)

b) Express Malice (4 Marks)

c) Cujustestsolumestusque coelom (4 Marks)

d)Ubi jus ibiremedium (4 Marks)

e) Injuria sine damno (4 Marks)