



**KISII UNIVERSITY**  
**UNIVERSITY EXAMINATIONS**

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

**LLBK 415: CONFLICT OF LAWS**

**STREAM: Y4 S2**

**TIME: 2 HOURS**

**DAY: WEDNESDAY, 8:00 – 10:00 A.M.**

**DATE: 20/07/2022**

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**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.***

1. Upon successful completion of KSL exams and subsequent admission to the bar, Evans-Machachari Okok secures a job at the Kenyan Embassy in France. While there, Evans meets Shanice (African-British lady) who is an intern at the UNESCO headquarters in Paris. After 3 months of courtship, Evans and Shanice celebrate their marriage in a colourful ceremony metres away from the Eiffel Tower. Excited by the news, Mrs. Okok visits Evans in Paris to “welcome her daughter” into the Okok family. Shanice invites her mother (Mrs. Ouma-Anderson) to help her prepare some food and to receive Mrs. Okok. After exchanging pleasantries, Mrs. Ouma-Anderson introduces herself and Shanice as her daughter. Upon seeking clarification about her Kenyan roots, Mrs. Okok confirms her fears.

It turns out that Mrs. Ouma-Anderson is a cousin to Mrs. Okok. Mrs. Ouma-Anderson had left Kenya for England in 1990, lost contact with

the Okok family and has not visited Kenya since. Mrs. Okok, cuts short her trip and returns home to Kenya.

Evans frustrated at the turn events and increased pressure from family members, wants to settle the issue “once and for all” so that he can enjoy his marital life in peace. Evans approaches you (conflict of laws expert) with instructions to file suit for validation of marriage with Shanice in an English court. Advice Evans (30 Marks)

2. Outline the relevant provisions of statute and relevant case law that regulate the area of enforcement of foreign judgments in Kenya.

[20 Marks]

3. Discuss the choice of law rules that govern contracts in the absence of an express choice of law by the parties and the courts are unable to infer a choice of law.

[20 Marks]

4. State and explain the choice of law rules that apply to testate succession in regard to:

a) movable property (10 Marks)

b) immovable property (10 Marks)

5. **A.** Doktari Gideon Dada, a successful businessman enters into an agreement with Mr. Jones to ship goods (*on MV Jahazi*) from Hull, England to Mombasa. *MV Jahazi* docks at Mombasa and Doktari Dada delivers the goods to the designated warehouse under the contract but part of the shipment is damaged. Jones demands that Doktari Dada compensates him for the loss of goods but Doktari Dada denies any liability and refuses to compensate Jones. In the contract, it is agreed by the parties that in the event of the dispute, the Kenyan law of contract will apply. Jones is informed by a private investigator that Doktari Dada (a passionate gambler) regularly travels from Uganda to Kenya, to attend a horse race in Ngong race course which is a 2-day event held once every 2 months.

a. Advice Jones on the rules that govern “presence” for *actions in personam* (10 Marks)

b. Using relevant case law, advise Doktari Dada, on the best litigation strategy if Jones had invited him to Nairobi Club for “an important meeting” that “turns out to be a hoax” (10 Marks)

**OR**

**5 B.** “*WK vBritish Airways Travel Civil Appeal Number 274 of 2015* provides the position of Kenyan courts on jurisdiction for *actions in personam* in relation to conflict of law issues”. Discuss

(20 Marks)