

MARTYS UNIVERSITY -NKOZI

UNIVERSITY EXAMINATION

DECEMBER, 2023

FACULTY OF LAW

**BACHELOR OF LAWS (LLB) YEAR II END OF SEMESTER II FINAL
ASSESSMENT, ACADEMIC YEAR 2023/2024**

NEGLIGENCE AND STRICT LIABILITY (LLB2211)

DATE: Tuesday, 12th December, 2023

TIME: 9:30 pm – 1:00 pm

DURATION: 3hours and 30 minutes

Instructions: Answer **FOUR** Questions in total. Question 1 is **COMPULSORY**

1. This is a partially open book exam. Candidates are permitted to bring into the Examination room and consult therein a clean reading list.
 2. Carefully read through all the Questions before attempting answers.
 3. No Names should be written anywhere on the Examination Book.
 4. Ensure that your **Registration Number** is indicated on all pages of the Examination answer booklet.
 5. Ensure your work is **clear** and **readable**. Untidy work shall be penalized
 6. Any type of examination Malpractice will lead to automatic disqualification.
 7. Do not write anything on the questions paper.
 8. Use the exam answer booklet for all your rough work
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Qn 1. Compulsory - (40 marks)

On October 10th 2023, Equinox University prepared a meal of posho from flour that had been supplied two days back by Midland Grain Millers.

By the evening it was discovered that most of the students who had consumed the posho had become seriously sick. Some students who were unaffected helped to ferry their fellow students using cars and ambulances that were available. Some students were hospitalised for at least a week but one student lost his life.

The university was closed and the examinations that were due to start on the 12th October were postponed to December.

It was established that the flour was contaminated because both the maize grain and the flour had not been stored properly by Midland Grain Millers. Midland Grain Millers had also fumigated the storage rooms without first removing the maize grains and flour but merely covered them with tarpaulin sheets during the fumigation process.

The following intend to sue Midland Grain Millers in negligence. Advise them on their proposed suits.

- a) One student Paul died. Normally nobody should have died but Paul had had a severe asthmatic attack and when he ate the posho, it worsened his condition resulting in his death.
 - i. Is an action for his death maintainable in negligence?
 - ii. If so, advise Paul's family on the legal basis of the suit they propose to file and what they must include in the plaint.
- b) Monica a student who had not eaten the posho meal rushed to help carry the sick students into the vehicles that took them to the hospital. As she held Paul so that he could be lifted into a car, Paul breathed his last. Monica suffered nervous shock and seeks to recover damages from Midland Grain Millers.
- c) The University decided to dispose of the maize flour that remained. But Tito, a cook at the University thought this was a waste. He took some of the flour, went home and prepared porridge. He suffered severe illness and incurred a heavy hospital bill. He seeks to sue Midland Grain Millers.

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d) Louise was a final year law student. She had been awarded a scholarship worth \$10,000 to go for graduate studies on condition that she submitted her provisional results by 15th December, 2023. As a result of the postponement of the examinations this was impossible, she lost her scholarship and seeks to sue Midland Grain Millers. She had not consumed the posho that made the students' sick.

Qn 2. What factors do courts take into account to determine, the existence of nuisance resulting in amenities damages? (20 marks)

Qn 3. Are damages for personal injuries recoverable under the Rule in Rylandas V Fletcher. (20 marks)

Qn 4. What is the duty of an occupier towards the various categories of persons who come onto his premises? (20 marks)

Qn 5. With the use of East African cases, discuss novus actus in the law of negligence. (20 marks)

Qn 6. Liability for escape of animals depends on the category in which the animal in question falls. What are these categories and how does liability arise in each of these categories? (20 marks)

Qn 7. Under what condition can secondary victims of nervous shock recover damages. Why does the law impose those conditions? (20 marks)

Qn 8. With the use of cases, critically discuss the law relating to the recovery of financial or economic loss in the law of negligence. (20 marks)