

UGANDA MARTYS UNIVERSITY -NKOZI

UNIVERSITY EXAMINATION

JANUARY, 2022

FACULTY OF LAW

**BACHELOR OF LAWS (LLB) YEAR III END OF SEMESTER ONE FINAL
ASSESSMENT, ACADEMIC YEAR 2021/2022**

NATURE AND HISTORY OF TORTS (LLB 2102)

DATE: Thursday, 27th January 2022

TIME: 9:30 am – 1:00 pm

DURATION: 3 hours and 30 minutes

Instructions: ANSWER FOUR QUESTIONS IN TOTAL

1. This is a partly 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

SECTION A

- Qn 1.** State and explain the developments in the law of torts during the period of finance capital
- Qn 2.** What is passing off and what are the remedies available for passing off? Your answer should be supported with case law
- Qn 3.** Write notes on **two** of the following;
- a) Vicarious Liability
 - b) Absolute privilege
 - c) Trespass to land
- Qn 4.** What is malicious prosecution; and in what circumstances does the cause of action arise?

SECTION B

ANSWER AT LEAST ONE QUESTION FROM THIS SECTION

Qn 5.

On 20th November, 2021 at 8:00a.m, Hadija was in her house with her two children, Zubair (12 years old), Yudaya (3 years old), as well as her elderly and ailing mother Aisha, who was bed-ridden.

As Hadija and her two children sat in the living room, a white vehicle popularly referred to as 'a drone' which was operated by a joint security team, pulled up into the compound. Five men jumped out of the vehicle. They were armed with guns. Three of the men remained in the compound while the other two proceeded into the house, cocked their guns and pointed them at Hadija and her children.

One of them then asked "where is your husband and the bombs?" Hadija was frightened, so was Zubair. Yudaya on the other hand was bemused. she wondered what these men who seemed to be angry were shouting about and what they were holding in their hands.

Hadija informed the two men that her husband had died three months back and she knew nothing about "the bombs".

One of the men then slapped Hadija, pulled off her veil and again demanded to be told where the husband and bombs were. The other one kicked and slapped the children, demanding that they disclose the whereabouts of their father and the bombs. One of the two men yanked Hadija's gold necklace from her neck and pocketed it. Her neck was bruised as a result. Hadija's phone was also taken from her.

The men proceeded to search the house, turning everything upside down. When they reached Aisha's room where she was bed-ridden, they realised she was ailing and did not touch her.

The search yielded nothing of interest to the security men. An hour later, the drone left with four men. One of them was left behind. He was on a chair in the compound holding his gun. He shouted at Hadija and the children "if anyone in the house attempts to leave, you are dead"

At 8:00pm the drone returned. One of the men informed the colleague that they had come to the wrong place. The drone then left with all of them.

Identify the torts committed against Hadija, Zubair, Yudaya and Aisha, as well as the remedies available to them.

Qn 6.

Joe Panda was a candidate for the 2021 parliamentary elections. He had stood in the Mawokota central constituency and lost to the current member of parliament for Mawokota Central Hon. Alex Bemba. On November 15th 2021, Joe Panda called a press conference where he stated that he had lost the 2021 election to a terrorist. He stated:

“The so called 'Honourable' member of Parliament for Mawokota Central not only rigged the elections in his favour, but is also part of the group of MPs who have orchestrated the Bijambiya attacks in Masaka. Although he has not been arrested yet, he is indeed a terrorist who is responsible for the death of those innocent people in Masaka.

He is unfit to be a member of parliament. He even falsely claimed during elections that he was a married man when in fact he is not married. However, he is said to have defiled his own 15year old daughter that he sired although he is not married”.

The Uganda Express Newspaper carried the above statement in its issue of November 16th 2021.

The following have given you instructions to sue Joe Panda and the Uganda Express Newspaper for defamation.

- a) The Hon. Alex Bemba
- b) Mrs. Hellen Bemba
- c) Tina Bemba, 15years old daughter of Bemba who is aggrieved about statements about defilement and being an illegitimate child

Your advice should include whether they have causes of action, remedies if any and defences to the actions, if any.