



## **THE COPPERBELT UNIVERSITY**

### **SCHOOL OF BUSINESS**

**BUSINESS LAW SESSIONAL EXAM**

**BBA/BAC/MKT BS 190 A**

**FULL TIME PROGRAMME 2022/2023**

#### **INSTRUCTIONS TO CANDIDATES**

1. Read the instructions carefully
2. Check that you have the correct test paper in front of you.
3. Answer Question 1 from Section A (Compulsory) and any 3 Questions from Section B
4. No concessions are allowed in this paper.
5. There shall be **NO COMMUNICATION AMONGST STUDENTS** during the Test. Any student caught for exam malpractice will be disqualified.
- 6.. Total Marks 100 Marks
7. Your answers must be legible and well paragraphed.

**TIME ALLOWED IS 3 HOURS**

**DO NOT TURN THIS PAGE UNTIL YOU ARE TOLD TO DO SO**

### SECTION A. Question 1 (Compulsory)

The first week of June 2023 had proven to be an exciting but trying week between two business oriented friends, namely Gulani Mambazi and Kambani Bwino. The following illustrates the events that had characterized their business transaction within a period of six days.

#### MONDAY - 2<sup>nd</sup> June 2016

Gulani Mabanzi puts his DVD player for sale in a shop window with a price tag on it indicating ZMK 10,000.

#### TUESDAY - 3<sup>rd</sup> June 2016

Kambani Bwino sees the DVD player and asks Gulani Mabanzi if he would be willing to consider a lower price on the player.

#### WEDNESDAY- 4<sup>th</sup> June 2016

Meanwhile, Gulani Mabanzi receives more enquiries from other interested customers. To Gulani Mabanzi's surprise, he also notices that Kambani Bwino is asking him if he could purchase the DVD player in two installments of ZMK5000 each spread over two months. Gulani Mabanzi turns out to be busy to respond to Kambani Bwino.

#### THURSDAY - 5<sup>th</sup> June 2016

Kambani Bwino writes a letter to Gulani Mabanzi saying "*I have now reconsidered my position and accept your cash offer of ZMK K10,000, when can I collect my DVD player?*"

The letter was posted and was supposed to reach Gulani Mabanzi on the same day but was destroyed in a fire at a postal sorting office and therefore, never reaches Gulani Mabanzi. Mabanzi decides to sell his DVD player to DJ Sokoneza for ZMK 14,000.

#### FRIDAY - 6<sup>th</sup> June 2016

Kambani Bwino telephones Gulani Mabanzi to ask when he can collect his DVD player. Gulani Mabanzi tells Kambani Bwino that the player has already been sold to someone else at ZMK 14,000.

#### SATURDAY - 7<sup>th</sup> June 2016

On this day, it was further discovered that Kambani Bwino had actually also asked Gulani Mabanzi if he could purchase the DVD player at ZMK8000.

Upon hearing that you recently graduated with a distinction in Business Law from CBU and has set up a fast track Business Consultancy firm in Lusaka, an irate Kambani Bwino now comes storming into your Offices for advice because he claims that Gulani Mabanzi is a crook and has breached their contract.

Advise Kambani Bwino on his position with regards to his activities on each of the days of this business transaction. Take into consideration the legal issues, legal rules and principles that may have played out in this transaction. Lighten up your work with reference to case law.

[TOTAL: 40 MARKS]

**SECTION B (Answer any three (3) Questions from this section.)**

**Question 2**

- (a) *For the longest time, the only form of misrepresentation that was recognized by the courts was Fraudulent Misrepresentation. However, with time Negligent Misrepresentation was recognized as a form of misrepresentation, particularly when it comes to falsehoods when giving statements. As an additional measure, the Misrepresentation Act was introduced to encompass Negligent Misrepresentation and Innocent Misrepresentation.*

Discuss in detail the validity of this statement by using appropriate authorities to support your position. **(10 Marks)**

- (b) Compare and contrast discharge by performance and discharge by frustration. **(5 Marks)**

- (c) The orthodox interpretation of consideration is that it is based upon the idea of 'reciprocity'. Identify the three (3) types of consideration and write brief explanatory notes on each of them laying emphasis on clear examples. **(5 Marks)**

**[TOTAL:20 MARKS]**

**Question 3**

*Many business relationships involve a principal and an agent in so far as getting around particular business dealings. Critics have argued that an agent is at all times permitted to put his interests first and do as he pleases, because he has been given the power to act after the creation of the agency, notwithstanding the fact that the agent has clear and express instructions given by his principal.*

- (a) Discuss this statement in so far as it relates to the duties placed upon an agent. **(5 Marks)**
- (b) Discuss the statement in so far it relates to the rights of the agent in the principal-agent relationship. **(5 Marks)**

- (c) Write short explanatory notes that highlight the major differences between an order of restitution and an order of rescission. **(5 Marks)**

- (d) Explain the conflict that is generated in contract law commonly referred to as "Battle of Forms" and explain how it is resolved by parties intending to enter into a contract. **(5 Marks)**

**[TOTAL: 20 MARKS]**

#### Question 4

(a) A valid contract can be said to be imperiled when it comes to cease. This is generally possible in a number of ways. Identify these ways and briefly offer an explanation for each of these ways.

(5Marks)

(b) Critically analyse and compare the case of **Balfour v Balfour ( 1919)** and the case of **Merritt v Merritt ( 1970)**. In your analysis explain the legal principles that had guided the courts in their decision in both cases

(5 Marks)

(c) Identify and write brief notes on the several ways in which :

(i) An Agency may be created

(ii) An Agency may be terminated

(10 Marks)

[TOTAL: 20 MARKS]

#### Question 5

(a) Stefany Supper is a Popular Gospel Music singer who had signed a contract with Mulenga Na Kay to sing at Mulenga Na Kay's Concert. The terms were as follows :

(i) Four (4) days pre concert rehearsals with the dancing queens.

(ii) One (1) day to perform at the concert

Unfortunately Stefany Supper fell ill and missed out on the Three (3) days of rehearsals but was ready for the Fourth (4) day and the concert itself. Mulenga Na Kay is upset and no longer wants Stefany to sing.

Can Mulenga Na Kay treat the contract as discharged. Citing relevant case law explain the reasons for your answer laying emphasis on the legal principles applicable.

(10 Marks)

(b) The Zambian legal system identifies and prides itself in two major categories of law and is also said to embrace a dual legal system.

(i) Identify these two major categories of law and briefly discuss the different types of laws under them with the help of a schematic diagram.

(5 Marks)

(ii) Explain the term 'dual legal system' by outlining the brief history of its emergence in post independence Zambia.

(5 Marks)

[TOTAL:20 MARKS]



**Question-6**

(a) Write **short explanatory** notes on the following:

- (i) Doctrine of Separation of powers.
- (ii) Doctrine of rule of law.
- (iii) Privity of Contract.
- (iv) Unconscionable contracts.
- (v) Misrepresentation.

**(10 Marks)**

(b) Contract law presupposes that parties to a contract must act in good faith under the principle of *pacta sunt servanda*. However, in an event of a breach of contract the injured party or innocent party would be entitled to remedies. Identify and explain the four (4) remedies that are available to the innocent party and give examples for each of them.

**(10 Marks)**

**[TOTAL: 20 MARKS]**