



KENYATTA UNIVERSITY
EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS
LCC 309: COMMERCIAL LAW I

1ST SEMESTER 2023/2024

TIME: 2 HRS

INSTRUCTIONS

1. Answer question **ONE** and any other **TWO** questions. Penalties accrue for failure to answer question **ONE**
2. Support your answer with relevant illustrations from case law, statutory provisions and any other references
3. Your writing must be **NEAT** and **LEGIBLE**
4. Your answer booklet must bear your assigned **REGISTRATION NUMBER**, both on the cover and every written page therein
5. Do not scribble or draft answers on the inner or outer cover pages or your question paper
6. Do not write anything except your **REGISTRATION NUMBER** on this question paper
7. **All** Kenyatta University Examinations rules apply as if they were contained herein

Question One

You have received the following email from Waridi:

‘Hello,

Congratulations on making it to the Top 30 Young Lawyers List! Hopefully, you can give me a legal opinion about the matter described blow.

One month ago, I signed a contract under the terms of which Juma agreed to sell two laptops that he had been using. After he had also signed the contract, we made arrangements for the laptops to be delivered to me on 30th September 2023.

Juma mentioned that he had made arrangements for Ty, his driver, to collect and deliver them to my house on 30th September 2023. Juma then called me in the morning on 30th September 2023 and after I had confirmed that I was at home and ready to receive them, he informed me that he was packing them in preparation for delivery. About two hours later, Ty came to my house. It was while offloading the laptops that I noticed that one of them was badly dented. I am very sure that this laptop was in good condition two days earlier when I inspected it at Juma's premises. I refused to accept both machines and quickly called Juma to inform him about the developments. He insisted that the machine was in good order at the time of leaving his premises but I am doubtful; about that.

At the moment, Juma has refused to refund the deposit that I paid when I agreed to buy the laptops. At the same time, I wonder whether it would be possible to have Ty bear any responsibility for the damaged machine and refund me.

Caldwell

Please advise me.

Regards

Waridi.

Using relevant authorities, prepare a legal opinion for Waridi.

(30 marks)

Question Two

Mali owns a stationery shop in Parklands. Although the shop has been in operation for a year, Mali has been struggling to find customers and has diversified to include printing and photocopying services to supplement the shop's income. He has employed Jirani to assist in the day to day running of the shop.

Last Monday, Mali called Jirani to inform him that he would be unable to work at the shop on that day as he was unwell. They agreed that Jirani would call Mali in case of any transactions in which he required Mali's guidance. At 2 p.m., Vera arrived at the shop and introduced herself as a procurement manager at Werevu School. She informed Jirani that the school was looking for a stationery supplier for 2024 when it would admit its first students. Although Jirani was not sure about the shop's capacity to supply stationery for the school's requirements, his marketing pitch seemed to impress Vera who promised to stay in touch. She requested that he signs a document as a representative of the shop to show that she had visited the shop's premises and that the shop had the capacity to supply stationery for the school's requirements.

Jirani tried to reach Mali on his cell phone to seek permission to sign the document but was unable to reach him as Mali's phone was switched off. Jirani was apprehensive as he signed the documents but reasoned that Mali would understand the situation given the circumstances.

On Tuesday, Jirani informed Mali about the developments at the shop on Monday and showed him a copy of the document that he signed.

Mali has shown you the document. In your assessment, it is a contract that binds him to supply stationery to the school.

Advise Mali on possible options available to him in light of the legal position in the above circumstances. (20 marks)

Question Three

'The rules regarding estoppel in the law of sale of goods are intended to balance the respective rights of two parties...'. Anon.

Discuss the above statement using relevant authorities. (20 marks)