



***"Investing in Africa's Future"***

**SCHOOL OF LAW**

**NLLB203 COMMERCIAL LAW**

**END OF FIRST SEMESTER EXAMINATIONS**

**NOV/DEC 2023**

**LECTURER: C. MUNGUMA**

**DURATION: 3HRS**

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**GENERAL INSTRUCTIONS TO CANDIDATES**

1. Do NOT write your name on the answer sheet.
2. Answer **one** question from Section A and any three questions from Section B.
3. Begin your answer for each question on a new page.
4. Marks allocated to a question are indicated at the end of the question.

## Section A

Answer all questions in this section.

### Question 1

- a) In a recent amendment to the Labour Act [*Chapter 28:01*], the right to terminate contracts of employment on notice was taken away.

Discuss whether this is a good or a bad move on the part of the government.

[10 Marks]

- b) On Saturday the 18<sup>th</sup> of August 2023, Kate attended Rosebow Theatre to see a live performance of Tarzan and the Lion. She purchased a ticket on-line 3 weeks prior to the event from the Theatre's website. As a member of the Rosebow Theatre, she was able to get a front seat.

Towards the end of the performance, Kate was horrified when, during a particular gory scene, she was splashed with fake blood when one of the actors attacked a lion. She was wearing a new white exotic dress worth more than \$1800, and the dress was ruined completely by the fake blood. Kate insisted on being compensated by the Theatre. The Theatre manager explained that the Theatre was not liable because it is protected by an exemption clause. The exemption clause appears on a sign above the Theatre Ticket office in the foyer. It reads:

**"The Theatre accepts no responsibility whatsoever for any loss or damage suffered by the Patron while the patron is on the Theatre premises."**

Is the Theatre liable for the damage to Kate's dress in this case?

[10 Marks]

- c) Would your answer be any different if Kate had bought the ticket at the Theatre ticket office and the above exemption clause appeared on the ticket issued to Kate as well as on the notice board above the foyer? Justify your answer. [5 Marks]

## Section B

Answer any three questions from this section.

### Question 2

Discuss the following principles in a contract of lease:

- i) Vacant possession.
- ii) Guarantee against eviction.
- iii) Suitability for purpose.
- iv) The maxim *huur gaat voor koop* rule.

In your discussions include case law and statutory provisions where appropriate.

[25 Marks]

**Question 3**

Many commentators have asserted that the Labour Act [*Chapter 28:01*] exposes the employee to the whims of an all-powerful employer.

Discuss whether this claim is justified or not in view of the provisions of the Labour Act [*Chapter 28:01*]. [25 Marks]

**Question 4**

a) The general rule is that risk or profit in the thing sold passes to the purchaser immediately after the contract is *per-fecta*.

Explain any four situations where the general rule does not apply. [16 Marks]

b) Analyse the concept of corporate personality of juristic bodies as it applies to companies. [9 Marks]

**Question 5**

a) It is argued that, “The duty of good faith is the bedrock of insurance law in Zimbabwe.” Discuss this duty explaining why it is important in this type of contract. [20 Marks]

b) Explain the principle of subrogation in insurance law. [5 Marks]

**Question 6**

a) In a partnership what authority does each partner have to enter into contracts with third parties? [15 Marks]

b) Explain whether crossings on a cheque have any legal significance? [6 Marks]

c) Analyse an agent’s duty of care and skill in the law of agency. [4 Marks]

**End of Examination Paper**