COLLEGE OF BUSINESS, PEACE, LEADERSHIP AND GOVERNANCE

BUSINESS LAW MMS203
END OF FIRST SEMESTER EXAMINATIONS

NOVEMBER/DECEMBER 2018

LECTURER: (Mr C. Munguma)

DURATION: (3 HRS)

INSTRUCTIONS

Section A is compulsory for all candidates.

Answer any three questions from section B.

Answers to questions must be supported by valid legal sources.

SECTION A

1. **Question 1**

Katarina (K) and Patrina (P) are sisters and the sole directors in a private company that is in the business of importing French Wine. They have been in business for the past three years. The company needs a new manager. On 1

July, K and P interview John for the position, and at the end of the interview they offer John the position. John asks if he can have the weekend to think about it. K and P do not say anything in response.

After John leaves the office, K and P, discuss the interview further, and they change their minds. K phones John a few hours later and tells him that the offer for employment has been withdrawn. John tells K that he has already written an email to K and P accepting the position, and that he was just about to send it. K tells John that unfortunately it is too late, and hangs up. John is so aggrieved by the conduct of the company and wishes to sue in the courts. The directors agree that they will re-advertise the position again next week in the hope of finding a suitable person.

   a) Explain and discuss whether a contract was formed between John and the company on the 1ˢᵗ of July? Focus on whether an agreement was reached. [16 marks]
   b) Would John have any prospects of success in the legal suit that he is contemplating? [9marks]

SECTION B

2. Question 2
a. With the aid of case law examples explain the concept of impossibility of performance. [9marks]
b. Analyse the law of restraint of trade explaining if this is justifiable at all. [10marks]
c. What are the rights of the unpaid seller against the buyer personally?

[6 marks]

3. Question 3
a. "The common law has been changed a great deal by the Labour Act. Zimbabwean employees are given **both basic and fundamental rights** by the Labour Act."

Provide examples of both ordinary **rights and fundamental rights** that are given by the Labour Act to employees. [15marks]

b. A breach of contract by one party has some remedies provided by the law to the innocent party. Discuss any three remedies that are provided by law for breach of contract [10 marks]

4. Question 4
a. The general rule is that risk passes to the purchaser immediately after the agreement is *per-fecta*. Explain the four situations where the general rule

does not apply. [10marks]

b. Analyse at least 5 obligations of an employee in an employment relationship. [10 marks]

c. As a lawyer for a landlord advice how you would tackle the question of whether paying a good tenancy deposit in a lease agreement is lawful or not? [5 marks]

5. Question 5

a. As an expert in Business Law discuss ways in which the Consumer Contracts Act may be improved in Zimbabwe. [13 marks]

b. Analyse how exemption/disclaimer clauses have been handled by Zimbabwean courts? [12 marks]

6. Question 6

a) Advice an overseas business man who intends to invest in the Zimbabwean economy how the courts in Zimbabwe are structured emphasising the respective jurisdiction of each court as well as the presiding officials at each level. [15]

b) "The landlord in a contract of lease survives on exploiting the tenant. The lessor is not responsible for anything during the course of the lease agreement." Discuss whether this assertion is justified in the light of the principles that apply in a lease agreement. [10]

END OF PAPER

J(1#&33(-'#)&#/
&:#K6,SY'#4.:+
#&+#H6+1.S"##K6,S#
.,,(2)'#J(1Y'#& 33 (-
=#'.S*+0#)%.)#) % *'#

:*44# A(# *+# -()6-+#
3&-#)%(# ,&33((# .
+1# ,.U(# '%(#
A&60%)# %*/# .)# 4.')#
:((U Y' # :&-U#
,&+3(-(+,(#I#'%
(#1*1#)
%*'#A(,.6'(#&3#3-
6*)364#,&44.A&-.)*&+#
&+#.#9&*+)#: &-U #2-
&9(,)"##
L'#)% (
#2-&/*'(#/.1(#AS#J(1#)
&#/&:
#K6,SY'#4.:+#4(0.44S#
(+3& - , (. A 4(X##$
%&&'(#)%(#

.+':(-#)%.)#A(')#-
(34(,)'#)%
(#4(0.4#2&'*)*&+#&+
#)%*'#*''6(
J(1#&33(-'#)&#/
&:#K6,SY'#4.:+
#&+#H6+1.S"##K6,S#
.,,(2)'#J(1Y'#& 33 (-
=#'.S*+0#)%.)#) % *'#
:*44# A(# *+# -()6-+#
3&-#)%(# ,&33((# .
+1# ,.U(# '%(#
A&60%)# %*/# .)# 4.')#
:((U Y' # :&-U#
,&+3(-(+,(#I#'%
(#1*1#)
%*'#A(,.6'(#&3#3-
6*)364#,&44.A&-.)*&+#

&+#.#9&*+)#: &-U #2-
&9(,)"##
L'#)% (
#2-&/*'(#/.1(#AS#J(1#)
&#/&:
#K6,SY'#4.:+#4(0.