



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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MAIN EXAMINATION

JANUARY – APRIL 2014 TRIMESTER

FACULTY OF LAW

EVENING PROGRAMME

CLS 401: PROFESSIONAL ETHICS

Date: APRIL 2014

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

Q1. Nduma was admitted to the role of advocates in December 2013. In February, 2014 he started practicing in the name of Nduma Chambers in Nakuru town. In the first month of practicing in his own, Nduma could not raise enough money to pay his office rent and decided to use his brother's office to meet his clients and take briefs. The brother is a dentist who operates a private clinic within Nakuru town and it is within this clinic that Nduma chambers is accommodated.

Nduma embarks on a very ambitious project of having over fifty (50) corporate clients by December 2014 and to achieve that he decides to subsidize his fees to attract more clients. His nephew Tot who sat for his bar exam in December 2013 successfully applied for pupillage with Nduma chambers and among his duties are to take briefs from clients, draft conveyance documents and also to prepare pleadings. Also Toto is tasked with marketing the firm in his rural home in Malungu.

Jared, a very experienced and famous clerk with a reputable law firm in the town has entered into an agreement with Nduma to search for clients for Nduma Chamber's and get 30% of the legal fees paid by clients introduced by him.

Ndumu also engages the services of Tito to handle complex conveyancing matters. Tito was admitted to the roll of advocates in 1999 and became a commissioner for oaths in 2003. He was however struck off the roll of advocates on 23rd December, 2013 due to some professional misconduct.

With specific reference to stationery provisions and case law, identify and critically discuss the legal and ethical issues and practices that arise in Nduma's practice as an advocate of the High Court of Kenya. (30 marks)

- Q2. In *Groom versus Croker* (1938) 2 ALLER 394 the court held the mutual rights and duties of a solicitor and his client were regulated entirely by the contract between them. The duties of the solicitor including such matters as the protection of the client's interest and obedience to his instruments arose solely from that contract. It followed that if a solicitor breached any of his duties, an action lay against him in contract but not in tort unless the circumstances clearly disclosed an action in tort.

Discuss correctness or otherwise of the above holding. Your answer MUST be supported by relevant case law and statutory provisions.

(20 marks)

- Q3. Joe has just returned to the country from Australia where he has been pursuing a bachelor's degree in computer science. Joe had been awarded a government scholarship to course which was specifically for computer related studies. He has always thought of becoming an advocate and now he is thinking of setting up a law firm that specializes in IT related matters. He however has no idea how to go about.

He has approached you for guidance on the same with specific reference to statutory provision and case law prepares a comprehensive memorandum that you will present to Joe.

(20 marks)

- Q4. a) Discuss the history of the legal profession in Kenya. **(10 marks)**

b) Identify and discuss **TWO** essential of advocacy. **(10 marks)**

Q5. Write explanatory notes on any **TWO** of the following:

- a) The advocates' disciplinary committee.
- b) Advocates' remuneration rules.
- c) Advocates' complaints commission. **(20 marks)**

END