



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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MAIN EXAMINATION

JANUARY – APRIL 2017 TRIMESTER

FACULTY OF LAW

EVENING PROGRAMME

CLS 207: CIVIL PROCEDURE II

Date: APRIL 2017

Duration: 3 Hours

INSTRUCTIONS: Answer ANY FOUR Questions

Q1. JohnMatata's Son TomMatata, 16 years old, was on 3rd January, 2017 involved in a Road Traffic Accident along Jogoo Road, Nairobi while traveling in a matatu KCJ 1234U belonging to AmisiAmisi a resident of Umoja. The vehicle operates between Umoja and Town. Tom Matata sustained serious injuries as a result of the accident and was treated at Kenyatta National Hospital where he paid a bill of 268,000/- for the treatment, and was issued with receipts for that payment. He was later examined by Dr. James Otieno who prepared a medical report and charged 5,000/- which he was paid and was issued with a receipt. Tom Matata has now come to your office in Machakos and has instructed you to institute a civil case in court for the injuries he sustained.

Prepare a Complaint bringing out all the essential requirements for the above case.
(30 Marks)

Q2. Write short notes;

- i) Revision **(5 marks)**
- ii) Review **(5 marks)**
- iii) Judicial Review **(5 marks)**
- iv) Decree **(5 marks)**

Q3. *"Four things belong to a Judge; to hear courteously, to proceed wisely, to consider soberly and to decide impartially."* – Socrates

a) Discuss the essential elements of a judgement. **(15 marks)**

- b) Briefly discuss what questions are allowed and which ones are not allowed in Cross Examination. **(5 marks)**
- Q4. a) Describe the order of conducting a hearing in civil proceeding and state how you would produce a documentary evidence whose author is dead as an exhibit in court. **(10 marks)**
- c) Describe the appeal process from Subordinate Courts to High Courts and High Court to Court of Appeal. **(10 marks)**
- Q5. The court which hears a matter has a wide discretion as to costs, but it is expected that the court will exercise this discretion in accordance with well-established principles.
- Discuss the General Principles regarding costs in civil litigation. **(20 marks)**

END