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JANUARY – APRIL 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 314: INSURANCE LAW

Date: APRIL 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

Q1. Avenaco Limited an owner of a petroleum tanker got into a contract with Evens Insurance Company Limited who was an insurer and who provided a comprehensive insurance cover for the said tanker. The tanker was involved in an accident while transporting fuel and as a result burst into flames resulting in total loss.

Evens Insurance Company limited stated that the contract signed between the company and Avenaco Limited was based on information given that the tanker would not be hired out. Avenaco Limited had more over stated in the contract that it had entered into a management agreement with another company, Avensis Transporters as opposed to hiring out the tanker.

Details later emerged of a collaboration agreement which provided that after the purchase of the tanker from Avensis Transporters, the said tanker would be retained in the fleet of Avensis Transporters. Further, that the driver and his turn boy would answer to Avensis Transporters and regular payments would be made to Avenaco Limited.

Avenaco limited has now been taken to court by Evens Insurance Company Limited on the basis of breach of term of contract of insurance.

a) Citing applicable case law advice the board of directors, Avenaco Limited, on the relevant key principle in insurance contracts and the arising legal issues thereof. (15 Marks)

b) What are the exceptions to non-disclosure in insurance contracts? (15arks)

Q2. The Plaintiff took out an insurance cover from the Defendant by a policy of insurance. In the policy the plate-glass in the Plaintiff's shop was insured against "loss or damage originating from any cause whatsoever, except fire, breakage during removal, alteration, or repair of premises."

Fire broke out on the premises adjoining those of the Plaintiff. The fire slightly damaged the rear of his shop only. However, the Plaintiff, while being assisted to remove his stock and furniture to a safe place, a mob, which had been attracted by the fire tore down the shop shutters and also broke the windows.

Using relevant case law, advice the Defendant as to whether the loss occasioned will warrant a claim by the Plaintiff. **(20 Marks)**

Q3. Discuss the following common terms used in Marine Insurance

a) CIF Contracts **(5 Marks)**

b) FOB Contracts **(5 Marks)**

c) C&F Contracts **(5 Marks)**

d) Ex Doc, Ex Pier, Ex Warehouse, or Ex Port of Importation **(5 Marks)**

Q4. Define the following terminologies in Insurance using examples

a) Sum Insured **(5 Marks)**

b) Under-insurance **(5 Marks)**

c) Peril **(5 Marks)**

d) Hazard **(5 Marks)**

Q5. The insurance industry faces numerous challenges making it one of the least established economies in Kenya. Discuss the accuracy of this statement.

(20 marks)

END