



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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AUGUST – DECEMBER 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 306: CONSUMER PROTECTION LAW

Date: DECEMBER 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions. You must think and plan for your answer before you write; precision and concision are of utmost importance.

- Q1. a) Advise the following aggrieved consumers of their rights and avenues of justice.
- i) Ms. Glorious Wango has just found out that when a cesarean section operation was conducted at the Hakuna Matata Government Hospital in Nairobi Kenya it was botched. A pair of scissors and surgical needles were in fact left in her abdomen. She is intent on seeking redress from the courts over the actions of this government owned facility. She is very aggrieved as a consumer of this particular public entity. **(5 marks)**
 - ii) Mr. John Juma had purchased the top of the range BMW motor vehicle from BMB Motors in Nairobi. It was sold with a three year warranty on the engine. The car developed serious mechanical problems within 3 months of use. Mr. Juma has also found out that the parent company in Germany acknowledged these vehicles had engine malfunctions and compensated the purchasers of these cars. BMB Motors has refused to compensate or repair Mr. Jumas vehicle. He seeks your advice. **(5 marks)**
 - iii) Mr. Tom Tick claims he is an aggrieved consumer of legal services and seeks your advice. He instructed Sone & Sone Co.

Advocates to represent him in a case where he sought general, special and exemplary damages from injuries sustained in a traffic accident. The special damages were premised on lost earnings. Whilst he was awarded the other damages the learned judge did not award him special damages as he did not put in evidence his payslips to prove his earnings. He blames his lawyer for this. His lawyer has insisted that Mr. Tom Tick never at one point gave him these documents. He insists his lawyer was negligent and should have asked for them. Advise him.

(5 marks)

- b) In a precise and concise manner; highlight instances which would constitute Unfair Practices under Part III of the Consumer Protection Act of Kenya, 2012.

(15 marks)

Q2. Whilst the Consumer Protection Act, 2012 is a new dawn in consumer protection in Kenya; there are several other public law mechanisms available to a consumer in protecting his or her rights. Discuss any four (4) Statutes enacted by the Kenyan Parliament where consumer rights are promoted and protected.

(20 marks)

Q3. Globalization of trade, improvements in international telecommunications, outsourcing, and the advent of the Internet have created unprecedented new challenges for protecting a consumer in the global market. With this in mind, discuss the complexities of protecting a consumer in today's global economy.

(20 marks)

Q4. Regulatory authorities are commonly set up to enforce safety and standards, and/or to protect consumers. Present any four (4) Regulatory authorities/bodies in Kenya, highlighting their mandate and portraying how they champion consumer rights. You must cite the governing law/Statute of the bodies you chose to present.

(20 marks)

Q5. With your understanding of consumer protection law; present short notes on the following;

a) Article 46 of the Constitution of Kenya in tandem with Consumer rights under Part II of the Consumer Protection Act, 2012

(10 marks)

b) Function of the Kenya Consumers Advisory Committees under Part X of the Consumer Protection Act, 2012.

(10marks)

END