



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A MAIN EXAMINATION

JANUARY – APRIL 2019 TRIMESTER

FACULTY OF LAW REGULAR PROGRAMME CLS 121: LAW OF TORTS

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Date: APRIL 2019

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

- Q1. "The occupier of land who brings and keeps upon it anything likely to cause damage, keeps it at his own peril and is liable for all the direct consequences of its escape, even if there was no negligence or intention on his part"
- a) In the light of this statement, critically discuss all the requirements of this Tort. **(15 marks)**
- b) In the legal principle laid in *Rylands v. Fletcher*, explain the defenses available to a person sued in an action brought against him under this rule. **(15 marks)**
- Q2. Tortious liability arise from the breach of a duty fixed by the law, this duty is towards persons generally and is redressable by an action for unliquidated damages.
Critically examining this statement clearly distinguish tort from other civil claims. **(20 marks)**
- Q3. Timothy runs a business producing environmentally friendly products, the Homa-bay County government being happy with how the company is changing lives around have conceded to their request to install highly sophisticated equipments for a recycling waste plant. Timothy's business premises is close to Shauri Yako primary school for children with special needs and operated by James. After some time it comes to light that the equipment used in the recycling plant are seriously interfering with special audio equipments used by James in teaching his students how to speak rendering James' equipments far less effective and also causing many of the students who wear those hearing aid feel pain and. Timothy has tried all he could to curb the problem, but has totally failed.

Advise Timothy on his potential liability. **(20 marks)**

- Q4. With reference to Occupier's Liability Act;
- a) Define an occupier and explain its provisions in relation to a person visiting premises. **(8 marks)**
 - b) Advise an occupier whose employee, a window cleaner was injured when a window pane was a shattered. **(6 marks)**
 - c) Outline the general defenses available to the occupier against liability to a trespasser. **(6 marks)**
- Q5. Write explanatory notes on any four of the following:
- a) Pure economic loss **(5 marks)**
 - b) The neighbor principle **(5 marks)**
 - c) Breach of duty **(5marks)**
 - d) Injuria sine damnum **(5 marks)**
 - e) Necessity **(5 marks)**

END