

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

THE LAW OF TORTS – PRB 003

10<sup>TH</sup> JANUARY, 2023

DURATION: 3 HOURS

9.00 AM – 12.00 NOON

**Instructions to Candidates**

- (a) Answer Question **ONE** and any other **THREE** Questions
- (b) Each Question carries **25** marks.
- (c) Marks shall be lost for illegible handwriting

PLEASE TURN OVER

**QUESTION ONE:**

- (a) List five (5) ways in which Tort is different from a criminal act. (5 marks)
- (b) "In order for one to be successful in a claim of negligence they must show a duty of care owed to them". Discuss. (15 marks)
- (c) Differentiate negligence from recklessness. (5 marks)

**QUESTION TWO:**

Write short notes on the following

- (a) Tortfeasor (5 marks)
- (b) Damages (5 marks)
- (c) Foreseeable risk (5 Marks)
- (d) Volenti non fit injuria (5 Marks)
- (e) Neighbourhood principle (5 Marks)

**QUESTION THREE:**

- a) "Donoghue vs Stevenson was a turning point in the development of the tort law". Discuss. (20 Marks)
- b) Elaborate on the tort of trespass. (5 marks)

**QUESTION FOUR:**

- (a) List and explain 3 factors that need to be proved for one to be successful in a claim of defamation. (15 marks)
- (b) Distinguish between **strict liability** and **vicarious liability**. (10 marks)

**QUESTION FIVE:**

- a) Elaborate on 5 general defences to a claim of tort. (15 Marks)
- b) Distinguish between private and public nuisance. (5 marks)

**QUESTION SIX**

- a) "Assault is both a criminal offence and a tort." Discuss. (10 Marks)
- b) "A person who for his own purpose brings on his land and collects and keeps there anything likely to do mischief, if it escapes must keep it at his own peril" Explain the quote above using decided case law. (15 Marks)

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END