



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE	:	LLB 202
COURSE TITLE	:	LAW OF DELICT
DURATION	:	3 Hours
LEVEL	:	2.1
DATE	:	29 May 2019

INSTRUCTIONS TO CANDIDATES:

1. Answer all questions in section A. All questions in this section are compulsory. Each question carries 25 marks.
2. Answer any two questions from section B. Each question carries 25 marks.
3. Students may bring into the exam un-annotated and clean texts of applicable legislation and the 2013 Zimbabwean Constitution. Copies with notes inside shall not be allowed and may be confiscated. No student is allowed to share his/her copy with another.
4. Number your answers accordingly

SECTION A

Question 1

The law of delict has been described as a body of liability rules which determine when a person can be held delictually liable and where loss lies where it falls.

Discuss this statement giving when it is not wrongful under the law of delict to cause harm to another clearly differentiating the requirements of wrongfulness and fault under the aquilian action.

[25]

Question 2

Using relevant authority discuss the doctrine of *vicarious liability*.

[25]

SECTION B

Question 3

John owns a vicious dog, Catie, which has a tendency of biting people. John keeps the dog chained in his garden with a long chain. Unfortunately, there is a latent defect in one link of the chain and when Njodzi, the postman goes to the post box to deliver some letters, Catie rushes to attack Njodzi. The chain breaks and Catie manages to squeeze its head through the gate bars and severely mauls Njodzi's right leg. Njodzi is taken to hospital and is given an anti-rabies injection to which he suffers a rare allergic reaction. His right leg has to be amputated. In the interim, Catie's head has been trapped between the gate bars. Exhausted by attempts to extricate himself, Catie begins to whine and whimper pitifully. This draws the attention of a passer-by, Curious. Touched by Catie's plight, Curious jumps over John's gate and frees Catie from his trap. Catie immediately jumps on Curious and severely bites him.

- a) Advise the parties of their rights and liabilities in this matter. (15)
- b) Discuss any remedies available on harm caused by such an animal. (10)

Question 4

At 11pm on a Saturday night, Patrick, a Mandara resident lights an old paraffin lamp as there is no electricity due to scheduled load shedding. He leaves the old paraffin lamp burning in his bedroom with the bedroom window open and went to prepare his dinner. A strong wind blows the

lamp over and as a result of this a fire starts and spreads rapidly to his neighbour's house. His neighbour Tamari is holding a party in the garden of her house and when the smoke and flames are spotted her guests panicked. Richard [her husband] drops a tray containing their special wine jar, one of which cuts the arm of Leona, a haemophiliac, who bleeds to death before hospital treatment can be obtained. Tamari's house is destroyed in the fire. A haemophilic is a person whose blood does not clot, so they bleed badly when cut.

Tamari wishes to sue Patrick to recover the damages caused by the destruction of her house and its contents as well as the loss of the tray of the wine jar and Leona's husband Robson who is currently unemployed wants to sue Patrick for the loss of support caused by Leona's death. While Patrick admits that he was negligent and that this negligence caused the destruction of Tamari's house he denies that he is the cause of the destruction of the glasses or of Leona's death.

a) Applying the different principles of causation advise him on whether he is the cause of the destruction of the wine jar and Leona's death. (15)

b) Would your answer be different if Richard had negligently dropped the wine jar which caused Leona to bleed to death. (10)

Question 5

There is a morass of controversy that surrounds the element of liability and many theories have been developed to determine the causal link between conduct and the loss suffered.

To what extent, if at all, does the theories of causation assist in a delictual liability inquiry?

[25]

Question 6

A prominent member of parliament stands up during a parliamentary debate session and says, "The Minister of Agriculture is a tested chronic liar. He wants the whole country to believe that the land reform programme was gender balanced when it was not. He also lied that he donated farming equipment and other agricultural inputs to three rural communities which he did not. He is a blatant liar and no one should trust him".

a) Advice both the minister and the member of parliament on their legal rights and remedies if any. [15]

b) Would your advice differ from the one above if those words were uttered by someone else at a church gathering? [10]