

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW

L281: LAW OF CONTRACT
SUPPLEMENTARY EXAMINATIONS

JULY 2009

MARKS 100

TIME: 3 HOURS

INSTRUCTIONS:

- 1. ANSWER ANY FOUR QUESTIONS**
- 2. ALL QUESTIONS CARRY EQUAL MARKS**
- 3. THE USE OF CASE LAW AND RELEVANT FACTUAL EXAMPLES
WILL BE REWADED**

Question 1

A has just bought a car and wishes to insure it with **Best Vehicle Insurer (BVI)**. He phones the company and organizes for a representative, **B**, to come to his home to discuss the insurance contract with him. During their discussion **B** assures **A** that **BVI** would be prepared to match the lowest insurance premiums that **A** can find. **A** signs the written insurance contract in which he agrees to pay a premium of M250.00 per month. **The written contract does not mention that BVI will match the lowest premium A can find.** However 5 days after concluding the contract, **A** speaks to his friend **M**, who tells him that she is paying M200.00 per month to insure her car, which is the exact same model as **A's** car, with **Ultimate Vehicle Insurance (UVI)**. **A** now approaches **B** to see if **BVI** is prepared to lower its premiums to M200.00

- (a) What is the parole evidence on which **A** would rely to have **BVI** lower its premiums?

(5 marks)

- (b) What would the effect of the parole evidence rule be on **A's** attempt to rely on this evidence?

(10 marks)

- (c) Is there any exception in the parole evidence rule which would assist **A**?

(10 marks)

Question 2

On the 1st of September **A** tells **B** that he is willing to sell his bike for M10 000.

B says that he will buy the Bike at that price as soon as he comes back from his Pretoria trip. They then work out details of method, time, and place of payment and delivery of the bike once **B** gets back from the holiday.

- (a) Is there a valid contract between A and B?
- (b) What is an example of the naturalia of the contract?
- (c) What is the example of the essentialia of this contract?

Question 3

A BC Attorneys have a contract with Telecom Lesotho, in terms of which they give their legal services in exchange for payment of M20 000.00 every month. Telecom Lesotho then decides to give ABC Attorneys more business, and the parties change the original agreement so that Telecom Lesotho pays MM40 000.00 per month.

What effect will the new agreement have on the original agreement and by what legal process will the change of agreement be effected? [25 Marks]

Question 4

Are the following terms conditions, time clauses or suppositions?

- (a) **A** agrees to give B M 50 when she gets her LLB [5 Marks]
- (b) **A** agrees to buy Y's house for M50 000 if he is able to secure the finance from a bank. [5 Marks]
- (c) **A** agrees to give **B** M50 for her 21st birthday which is on Friday [5 Marks]
- (d) **A** agrees to pay M1 mn for a painting if it is by **Lee** [5 Marks]
- (e) **A** says he will give **B** a raise if he reaches the company's target of sewing 500 dresses of seshoeshoe for November [5 Marks]

Question 5

- (i) Explain the distinction between a **stipulation alteri** and a **contract of agency**
- (ii) Explain the distinction between **Pacta servanda** and **privity of contract**

(iii) Explain the difference between **parole evidence rule** and **extrinsic evidence**

Question 6

When does misrepresentation vitiate an agreement?

[25marks]