

**KENYA SCHOOL OF LAW**



**EXAMINATION FOR ADMISSION  
TO THE ROLL OF ADVOCATES**

**ATP 100: CIVIL LITIGATION**

**MONDAY 18<sup>TH</sup> NOVEMBER, 2013**

**DURATION: 3 HOURS**

**Instructions to Candidates**

- (a) Answer question **ONE** and any other three (3) questions
- (b) All questions carry 15 marks each
- (c) Marks shall be lost for illegibility

**PLEASE TURN OVER**

1. You practise law as a civil litigation lawyer, and you have made a name for your great firm of Karibu & Co. Advocates in civil cases. Your law firm is housed on the whole Sixth Floor of the magnificent Goodhouse, along Heroes Avenue, Nairobi.

Early last year a book was published under the title *Harmonization of the Laws of the Great African Waters Region*. Matsiko Korokora Lule is the son of Semakula, founder of Centre County Chieftaincy. At a session in your chambers he gives you the following story. He wrote and published this book after he had done a lot of research. It had not been easy for him to source a publisher in the whole world. The long search for a publisher led to the manuscript having to be revised many times before it was published by the present publisher, with Lule holding copyright in the book.

Continuing his story, Lule says that he has learnt and verified, that Leonida Kamau Changee has published the same book in the English, Kiswahili, Ateso, Lingala and Nyarwanda languages under her own name purporting that she is its author. She has sold a million copies of the book and collected Kshs.300,000,000/= from its sales. She still holds large stocks of the copies of the book for sale. Her purported book is under the title *Law in the Great Lakes Countries*.

Lule does not know how many more copies of Changee's book have been sold and how much more money has been made out of subsequent sales after he last checked the position. He says that he never consented to Changee to publish the offending book. Copyright of his book still subsists. He seeks the copies of the book published in breach of his copyright delivered to him; and to stop the wrongful acts of Changee who continues to keep possession or custody and control of those copies. She is bent on repeating the alleged wrongs complained of.

Lule instructs you to sue for appropriate remedies, and pays you the requisite legal fees for your professional services to take steps to protect his rights under the law. Your demand letter has been replied to by Messrs Deng Huu & Co. Advocates by their letter showing them to be located at Room Two, Basement Level, Table House, Holes of the City Road, Nairobi. They state that they have instructions from Changee to deny liability, swearing to continue publishing, printing and sale of her book, and promising to keep the sales high. They reply that their client will not surrender the copies of the book which are still unsold, and will not disclose the sales made. They have instructions to accept service.

Draft a plaint making appropriate claims for all the remedies for Lule. Do not file suit yet, as you are to discuss your draft with your client when he next visits your chambers next week.

2. Ramnum Gilbert Chuchu owns luxurious maisonettes leased out to three tenants. In the course of a violent physical confrontation between these tenants there were breakages and damage to the maisonettes. Chuchu spent one million shillings to repair the damage, replace furniture and in repainting. He filed a suit against the three tenants as follows:
  - a) Recovery of possession of the maisonette occupied by tenant Munuo Namuddu Nuti who had accumulated unpaid rent arrears of Kshs.10,000,000, and had, at any rate broken a covenant not to damage the leased property;
  - b) Recovery of Kshs.1,000,000, spent for repairs, furniture replacement, and repainting, all claimed against tenant Royinder Singh John;