

## QUESTION ONE

You are approached by the man who paid your college fees, your maternal uncle Mr. Mjumbe Mbele. He complained bitterly how a local media house had published an article about him which he described as malicious falsehoods propagated by his enemies. He vowed to teach them a lesson.

He now informs you that he has instructed his former schoolmate Wakili Mjuaji to sue the media house. He says that despite offering to pay for the services, his schoolmate declined citing lasting friendship. Instead your uncle should pay for court filing fees and related disbursements only.

He prepared a plaint in which he claimed general, punitive and aggravated damages for libel and costs. He then asked for a total of Kshs100,250 being Kshs.70,150 court fees on plaint and Kshs.30,100 allied disbursements.

Your uncle has now discovered that his case has been dismissed for want of prosecution and that the court filing fees on plaint paid was only Kshs.4,880. He is furious. He wants you to do something.

You are holding the Advocates Act in your hands. The lectures on Professional Ethics and Practice also pass through your mind. You schedule a meeting with him.

- (a) Are there valid questions on the conduct of Wakili Mjuaji? (4 marks)
- (b) Are there lawful options open to Mjumbe Mbele? (4 marks)
- (c) With reference to the Advocates Act, draw up appropriate pleadings for filing against the conduct of Wakili Mjuaji giving reasons for your actions. (12 marks)

## QUESTION TWO

Tarusha is a well renowned civil litigation advocate and has been practicing as a sole practitioner. He has now entered into a partnership with Mulakazi & Ziwala Advocate whose area of specialization is Conveyancing. As part of their strategy to attract more business to the newly established law firm, the three partners have engaged a PR company to promote their services. The PR Company has prepared advertisements bearing pictures, billboards, newspaper advertisements as well as radio and TV advertisements to the effect that the law firm of Mulakazi, Ziwala & Tarusha Advocates provide a broad spectrum of legal services beyond the areas of specialization and are also offering special rates on fees with conditions attached on success or failure.

As a result of these advertisements Levilla & Associates Advocates who specialize in commercial transactions have suffered mass exodus of their clients moving to Mulakazi, Ziwala & Tarusha Advocates.

You have been instructed by Levilla & Associates to lodge a complaint against the said Advocates. Identify issues and advise your client on the content of the affidavit of complaint noting to clearly justify your answer with relevant legislative provisions and cite instances of professional misconduct, if any. (10 marks)