



# **GRETSA UNIVERSITY - THIKA**

## **UNIVERSITY EXAMINATIONS JANUARY - APRIL 2017 SEMESTER**

### **BACHELOR HOSPITALITY MANAGEMENT**

**COURSE CODE: BSHM 302**

**COURSE TITLE: LEGAL ASPECTS IN HOSPITALITY AND  
TOURISM**

**DATE: 7 APRIL 2017**

**TIME: 11.30 AM - 2.30 PM**

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#### **INSTRUCTIONS TO CANDIDATES**

- 1. SECTION A IS COMPULSORY.**
- 2. SECTION B: ANSWER ANY OTHER **THREE** QUESTIONS.**
- 3. DO NOT WRITE ANYTHING ON THIS QUESTION PAPER AS IT WILL BE AN EXAM IRREGULARITY.**
- 4. ALL ROUGH WORK SHOULD BE AT THE BACK OF YOUR ANSWER BOOKLET AND CROSSED OUT.**

**CAUTION:** All exam rooms are under CCTV surveillance during the examination period.

## SECTION A: COMPULSORY Questions [40 MARKS]

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### Question 1

#### Taylor v. Caldwell [1863]

- a) The defendant let to the plaintiff a music hall for the purpose of holding four concerts. Prior to the first concert the music hall was destroyed by fire. The plaintiff sued the defendant for damages for not having the music hall available for his use on the dates booked. As a lawyer advise the plaintiff. [10]
- b) Distinguish between criminal law and civil law providing possible remedies in case the prosecutor and plaintiff discharges the burden of proofs. [10]
- c) Discuss **FIVE** grounds in which a restaurant license can be cancelled Hotel and Restaurants Authority. [10]
- d) Discuss **FIVE** conditions in which an innkeeper may refuse services to a customer. [10]

## SECTION B: Answer ANY Other THREE (60 Marks)

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### Question 2

- a) One of the functions of law in Kenya is that it is a standard setting and control mechanism. By giving examples, analyze **FIVE** ways in which law performs this function in the Kenyan hospitality industry. [10]
- b) By explaining the concept of judicial precedents as a source of Kenyan law, discuss **FOUR** of its benefits when it comes to dealing with cases in the hospitality industry. [10]

### Question 3

- a) Explain **FIVE** reasons that may make a guest in a lawsuit with a hotel ignore arbitration first and seek litigation in courts. [10]
- b) Discuss **FIVE** rules relating to contractual offers in the field of hospitality and tourism. [10]

### Question 4

- a) In relation to the contract for the sale of food and drinks, explain **FIVE** provisions of the Public Health Act that governs the operations of the hospitality establishments. [10]

**b) Jackson V. Horizon Holidays 1975.**

The plaintiff booked a holiday for himself, his wife and their two children. The total cost of the holiday including air fares, was 1,200 pounds. The holiday provided failed to meet the description given in the defendant's brochure in a number of vital aspects.

The plaintiff brought an action claiming damages, including a claim for his own personal disappointment and that of his wife and children for the failure of the holiday to meet the description given by the defendant company. The trial judge allowed when assessing the damages payable by the defendants (1,100 pounds) for the disappointment of the plaintiff alone and for the disappointment of his wife and family. The defendants appealed against the quantum of damages. As a lawyer, advise the defendant giving the rationale for your answer. **[10]**

**Question 5**

- a)** A partnership may be formed through agreement, simple, or under deed, or even may be implied from the conduct of the parties concerned. Partnership does not have to be formal though they are usually in writing and the document containing such agreement is deed of partnership drafted by lawyer. Analyze **FIVE** types of information that will be included in the document when starting a fast food restaurant in a busy town. **[10]**
- b)** Explain **FIVE** factors that influence the decision on the formation of a business enterprise. **[10]**