



RIARA LAW SCHOOL
UNIVERSITY OF EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE
AND
PRE-KENYA SCHOOL OF LAW CORE COURSES COMPLIANCE PROGRAM
AUGUST 2024
RLB 210: CIVIL PROCEDURE II
INSTRUCTOR: MR WASHINGTON ODONGO OMBIS
INSTRUCTIONS

1. This is the final examination in Civil Procedure II. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This examination has **FIVE** questions. Please answer **QUESTION ONE TWO AND THREE ARE COMPULSORY, ANSWER TOTAL OF 4 QUESTIONS.**
3. The examination has 3 pages, including this one.
4. Time allocated for this examination is **TWO HRS** (2) hours. You must stop writing when time is called.
5. Please sign the roll sheet when you turn in you answer sheet. If you fail to sign the roll sheet, we shall have no way of establishing that you sat for this examination and your marks will not be reported.
6. This is a **CLOSED BOOK** examination. This means you are not permitted to bring ANY hard or soft materials to the examination room. You re also not allowed to access materials stored in computers, electronic gadgets or the internet. You should not bring to the examination room any of the following: cell phones, tablets, computers, statutes, notes, outlines, or books. Neither should you bring to the examination room books or materials unrelated to this course. If you need to have medicine or food items with you, please let the invigilator know before the examination begins.
7. This examination is governed by **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the invigilator any incidences of academic dishonesty compromising the integrity of this examination.

QUESTIONS

Question One (30 Marks)

On the 20th day of January 2024, one Florence instituted a claim for unfair termination under the employment laws of Kenya against Gonah & Associates Advocates. Her claim was filed in the relevant court. At the gist was that she happened to have been terminated without any requisite notice as this was done on phone by the managing partner Gonah Esq. Besides this, she was not given any reasons for her termination and also not given the opportunity to defend herself in disciplinary proceedings.

The suit was filed in court and judgment delivered on the 10th July 2024 by Justice Emmanuel as follows:

- a) Claim dismissed.
- b) Claimant to bear the costs of the suit.

The advocates on record for Florence are the firm of Njane & Co Advocates.

Considering the above, assuming you are the advocate on record for Florence and being dissatisfied with the said decision prepare all the relevant pleadings which will enable her to proceed further with the matter.

Hint: Florence net pay was Kshs. 200,000/=.

Question Two (20 Marks)

On the 8th day of July 2024, in the case of *Kibaki v Koin Suppliers Ltd Case No E 24 of 2023*, judgment was delivered in favor of the Plaintiff and the Plaintiff was also awarded the costs of the case.

During the matter, the following activities took place:

- a) On the 13th Feb 2023 received instructions to file suit on breach of contract, contract value Kshs. 40,000,000/=
- b) On the 14th Feb 2023 – drew plaint (10 folios).
- c) On the 14th Feb 2023 - made 4 copies of the plaint.
- d) On the 14th Feb 2023 – drew verifying affidavit (1 folio).
- e) On the 14th Feb 2023 - made 1 copy of the verifying affidavit.
- f) On the 14th Feb 2023 – drew list of witness (1folio).

- g) On the 14th Feb 2023 – made 3 copies of the list of witness.
- h) On the 14th Feb 2023 – prepared witness statements (10 folios)
- i) On the 14th Feb 2023 – made 4 copies of the witness statements.
- j) On the 14th Feb 2023 – drew bundle of documents (20 folios).
- k) On the 14th Feb 2023 – made 3 copies of the bundle of documents.
- l) On the 15th Feb 2023 – send process server to serve Koin Suppliers (located in CBD).
- m) On the 20th Feb 2023 – received statement of defense (10 folios).
- n) On the 20th Feb 2023 – received defendants verifying affidavit (1 folio).
- o) On the 20th Feb 2023 – received defendants list of witnesses (1 folio).
- p) On the 20th Feb 2023 – received the defendants witness statements (20 folios)
- q) On the 20th Feb 2023 – received defendants bundle of documents (50 folios)
- r) On the 20th August 2023 – attended court for mention for compliance ½ day.
- s) On the 10th December 2023 – attended court for hearing full day.
- t) On the 10th January 2024 – prepared submissions. (15 folios)
- u) On the 10th January 2024 – prepared list of authorities and bundle. (100 folios)
- v) On the 20th February 2024 – received defendants submissions (20 folios)
- w) On the 20th February 2024 – received defendants list of authorities and bundle. (100 folios)
- x) On the 8th July 2024 – attended court for judgment ½ day.

Considering the above, prepare the party and party bill of costs.

Question Three (10 Marks)

On the 15th day of June 2024, one Angel Kariuki was appointed to the ICT taskforce committee of the Law Society of Kenya (LSK), Nairobi branch. Upon assuming this position, one of the tasks she was supposed to undertake was to give an opinion on the challenges experienced using e – filling system by advocates in Kenya.

Assuming you are Angel, prepare the relevant opinion.

Question Four (10 Marks)

“[C]ivil procedure practice has positively advanced in the Kenyan jurisdiction.” – Anonymous . To what extent do you agree or disagree with this statement.

Question Five (10 Marks)

Brewah Mugbeh has been appointed as the chairperson of the Nairobi bar bench committee of the High Court, one of his first assignments is to discuss issues of decree and challenges faced in execution of decrees in Kenya.

Assuming you are Mugbeh, prepare an opinion on the modes of execution addressing the challenges faced for each mode of executing decrees.