

**COUNCIL OF LEGAL EDUCATION.**



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

**ATP 103: LEGAL WRITING & DRAFTING**

**WEDNESDAY 17<sup>TH</sup> JULY, 2019.**

**DURATION: 3 HOURS.**

**Instructions to Candidates:**

- (a) This paper contains **Four (4) printed pages** including the cover page, with a total of **Six questions**.
- (b) Candidates **MUST** answer **FIVE** questions.
- (c) **Question ONE** is compulsory and carries **20 marks**.
- (d) **All other questions** carry **10 marks** each.
- (e) Answers **MUST** be supported by relevant case law and statutory provisions where required.

**PLEASE TURN OVER**

### QUESTION ONE

Mr. Jay is a motor vehicle salesman. He owns and manages Gari Chap Limited, which trades in both second-hand and first-hand motor vehicles. He has employed several members of staff as salesmen who are paid a commission at a fixed rate of ten per cent on the sales made. Mr. Jay, on occasion sells a motor vehicle which he has not purchased, on behalf of his clients. When he does this, the commission charged is based on the agreed rate between the clients and him.

On the 22<sup>nd</sup> of August 2013, Jacinta Wangeci brought her Mercedes Benz C-Class to Gari Chap Limited. Jacinta and Jay agreed that the commission payable for the sale of the Mercedes Benz would be seven percent of the amount paid. They further agreed that the commission charged would not exceed Kshs.50,000. Jacinta left the motor vehicle with Mr. Jay and proceeded to her home.

On 31<sup>st</sup> of August 2014, Tim, one of Jay's salesmen successfully negotiated and sold Jacinta's Mercedes Benz to Paul for Kshs.800,000. Tim later informed Jay of the sale and remitted Kshs.720,000 to Jay.

On the 4<sup>th</sup> of September 2014, Jay informed Jacinta of the sale of her Mercedes Benz and requested that she collect her cheque. When Jacinta came to collect her payment, Jay handed her a cheque for the sum of Kshs.670,000/- as the payment for the Mercedes Benz after deducting Kshs.50,000 as commission.

On the 17<sup>th</sup> of June 2019, Paul wrote to Jacinta and requested her to approve his request for transfer of ownership of the Mercedes Benz online. Jacinta subsequently proceeded to approve the transfer of the ownership of the Mercedes Benz in favour of Paul. However, she noticed that the purchase price indicated by Paul in his request was Kshs.800,000.

- (a) Assume that Jacinta has come to your law firm for legal advice on how to recover her outstanding payment. Draft a demand letter on the issues raised. (5 marks)
- (b) Assuming that you have received instructions from Jay alleging that he has violated the law, draft an appropriate response to the demand letter in (a) above. (5 marks)
- (c) Assuming that your law firm has received the response referred to in (b) draft the appropriate documents to be filed in court that would adequately enable Jacinta to recover the amount sought. (10 marks)

### QUESTION TWO

The Association of Commonwealth Lawyers in Africa (ACLA) has noticed that most of its members still draft documents in traditional English, thus most legal documents in the region;

- (a) Use gender-insensitive language;
- (b) Use legalese and jargon;
- (c) Use foreign language;
- (d) Have complex paragraphs and sentences; and
- (e) Are wordy.

ACLA has retained you as the resource person to train its members on the techniques they could use to transition from traditional to plain English.

Write your presentation.

(10 marks)