

CHUKA UNIVERSITY

MAIN CAMPUS

ACADEMIC YEAR 2022/2023

EXAMINATION FOR THE BACHELORS DEGREE IN BACHELOR OF LAWS

LAW OF EVIDENCE

DATE: MAY

INSTRUCTIONS:

ANSWER THREE QUESTIONS

QUESTION 1 IS MANDATORY

QUESTION 1:

1. "A, who witnessed an act of dangerous driving, some weeks later said to B that the car in question was blue and at the same time made a written note to the same effect. B reported to C what A had said to him. If A is subsequently called as a witness in proceedings concerned with the incident in question, he may of course make a statement from the witness box in the course of giving his evidence to the effect that the colour of the car he saw was blue. Evidence may not be given, however, by A,B, or C of the oral statement made by A out of court. Likewise, the written statement made by A is inadmissible. if A were to give evidence that the car in question was blue, and it were suggested to him in cross-examination that his evidence had been recently fabricated, his former out-of-court statements would be admissible, but not as evidence that the car was in fact blue. If A were to give evidence that the car in question was red, and under cross-examination about his previous out-of-court statements were to deny having made them, they could be proved against him, again not as evidence that the car was in fact blue.

Discuss the above excerpt in light of the rule of hearsay and the exceptions thereto.
(30 Marks)

Question 2:.

- a. John, a student of Evidence at Chuka University has come to you wanting to know the difference between testimony and parole evidence. Give a detailed explanation (10 Marks)
- b. Distinguish between private documents public documents while noting to explain how they are to be produced in Court. (10 Marks)

Question 3:

The Supreme Court of Kenya, in the case of **Republic Vs. Ahmed Abolfathi & Anor. Petition No. 39 of 2018**, discussed at length the differences between a confession and an admission. In light of the pronouncement in the said judgment, critically discuss the differences between a confession and an admission. (20 Marks)

Question 4

- a. Parties are at liberty to bring into Court any evidence they find important to support their case. However, not all such evidence may be admitted by Court. Examine the law governing admissibility of evidence in Kenya (10 Marks)
- b. Briefly explain the procedure set-out under the Evidence Act that a litigant is to comply with for electronic evidence to be admissible in a Court of law. (10 Marks)

Question 5:

Briefly outline the rules of evidence that govern each of the following:

- (a) Attestation and execution of documents (4 Marks)

(b) Documentary evidence and parol/extrinsic evidence.
(4 Marks)

(c) Stamp duty and unstamped documents.
(4 Marks)

(d) Written hearsay. (4
Marks)

(e) Production of Public Documents in Court
(4 Marks)