

**NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY**

**FACULTY OF COMMERCE**

**DEPARTMENT OF INSURANCE AND ACTUARIAL SCIENCE**

**BACHELOR OF COMMERCE (HONOURS) DEGREE**

**COMMERCIAL LAW I**

**CIN 1103**

**11 MAY 2009**

**Morning**

**3 hours**

**TIME 3 hours**

**INSTRUCTIONS TO CANDIDATES**

Answer **any** four questions.

**INFORMATION FOR CANDIDATES**

This paper contains six (6) questions.

The businesses in this question paper are intended to be fictitious.

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This question paper consists of 3 printed pages.

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**QUESTION 1**

- (a) Explain what is meant by the term 'stare decisis'? [4]  
(b) What is the importance the following in a court judgment?  
(i) Ratio decidendi [4]  
(ii) Obiter dictum [3]  
(iii) Distinguishing [2]  
(c) Discuss four juridical rights any business owner may have. [12]

**QUESTION 2**

- (a) Explain what is meant by 'law of property'. [5]  
(b) Briefly explain the following aspects of the law of property:  
(i) right of ownership  
(ii) the difference between ownership and possession  
(iii) the acquisition of ownership [12]  
(c) How is ownership of immovable property acquired? [2]  
(d) Discuss how law protects ownership. [6]

**QUESTION 3**

- (a) Explain what is meant by 'unjustified enrichment' and what obligations are imposed upon the enriched person. [15]  
(b) Outline the requirements for the formation of a valid contract. [5]  
(c) Distinguish between a void and a voidable contract. [5]

**QUESTION 4**

- (a) Explain the requirements for the offer and acceptance. [11]  
(b) Outline five ways in which an offer falls away. [5]  
(c) Discuss the conditions that should be met before mistake renders a contract void. [9]

**QUESTION 5**

- (a) What is meant by 'misrepresentation', and when does it render a contract voidable? [9]  
(b) Explain the following forms of misrepresentation:  
(i) intentional misrepresentation  
(ii) negligent misrepresentation  
(iii) innocent misrepresentation [6]  
(c) What is meant by 'duress', and when does it render a contract voidable? [6]

(d) Dr Bacossi persuaded his patient (Ms Kiyakiya) to sell to him a second hand fridge at half the price. The patient later felt that he had been cheated by the doctor, and had only agreed to sell the fridge because she was afraid of being victimized by his doctor, who happens to be the only specialist in town. The patient now wishes to sue the doctor for the full price. Advise Ms Kiyakiya. [4]

**QUESTION 6**

- (a) Discuss the rights of the purchaser in a contract of sale. [12]
- (b) Explain five forms of delivering movable property. [10]
- (c) When is a contract of sale *perfecta*? [3]