



ASSIGNMENT MEMORANDUM

**SUBJECT : BUSINESS LAW (BL)
BUSINESS LAW 101 (BL101)**

ASSIGNMENT : 2ND SEMESTER 2011

SPECIFIC INSTRUCTIONS

GIVE REASONS FOR YOUR ANSWERS TO PROBLEM-TYPE QUESTIONS (CASE STUDIES)

QUESTION 1 [10]

The Constitutional Court is the court of final instance in all matters relating to the enforcement of the Constitution (2). The High Courts consists of provincial (2) and local divisions (2). The High Courts have jurisdiction within their defined territories (2). The Supreme Court of Appeal is the highest court of appeal in all matters except constitutional matters (2). It is not a court of first instance (2). There is also a system of magistrates' courts (2) and small claims courts (2). Each court has jurisdiction in respect of certain matters within its area (2).

QUESTION 2 [20]

- 2.1 In terms of the contract of sale, Gugu as the seller gives an implied warranty against latent defects (2 marks). A defect is latent if it cannot be ascertained by reasonable inspection (2 marks). In the case study, if the defect in steering mechanism is latent, Harry is entitled to the aedilician remedies (2 marks). If the car is completely unfit for use, he is entitled to restitution (2 marks) with the actio redhibitoria (2 marks). If the car can still be used (2 marks), he is entitled to a reduction in the purchase price (2 marks). **(Maximum 10 marks)**
- 2.2 The term 'risk' in a contract of sale (2) refers to accidental loss (2) – loss caused otherwise than as a result of the seller's fault (2). If the loss is caused by the actions of a third party, the loss is strictly speaking not 'accidental' for the purposes of the passing of the risk (2). But in both these situations the loss is borne by the buyer (2). So Harry bears the loss for Ivan's conduct and he remains liable for the balance of the purchase price (2). **(Maximum 10 marks)**

QUESTION 3**[16]**

- Equality in the consumer market
 - The right to privacy
 - The right to choose
 - The right to disclosure and information
 - The right to fair and responsible marketing
 - The right to fair and honest dealing
 - The right to fair, just and reasonable terms and conditions
 - The right to fair value, good quality and safety.
- (Maximum 16 marks)**

QUESTION 4**[10]****Any 5 (five) of the following**

- Physical address and telephone number
 - Website url and email address
 - Membership to any regulatory body and its details, for example the direct marketing association
 - Code of conduct to which supplier subscribes
 - In the case of a juristic person its registration details
 - Physical address where legal documents will be received
 - Sufficient information on products and services to enable the consumer to make an informed decision
 - Full purchase price including transport/taxes and other fees
 - Manner of payment
 - Terms of sale
 - Time within which goods will be delivered
 - Manner/period in which consumer can obtain full records of the transaction
 - Return/exchange/refund policy
 - Alternative dispute resolution code to which the supplier subscribes
 - Where appropriate the minimum duration of the agreement
 - Reference to the section 44 cooling-off provisions.
- (Maximum 10 marks)**

QUESTION 5**[34]**

- 5.1 Mistake concerning a person's motive for entering into a contract is not a material mistake **(2)** and so does not preclude agreement (consensus) **(2)**. The contract between the parties remains valid **(2)**. **Maximum 4 marks**
- 5.2 A contract will be void **(2)** on the ground of mistake **(2)** if the mistake concerns a material fact, legal rule or principle **(2)**. A mistake is material if it concerns the nature of the contract **(2)**. In this case study the parties do not agree on the nature of the contract **(2)** and so the contract is void for mistake **(2)**. **Maximum 12 marks**

- 5.3 Misrepresentation **(2)** renders a contract voidable **(2)**. In order to succeed, Barbara must prove that:
- A misrepresentation or untrue statement regarding the merx was made **(2)**
 - The misrepresentation was made by one contracting party to the other **(2)**
 - The misrepresentation was unlawful **(2)**
 - The misrepresentation must have induced the contract as it stands **(2)**
 - The misrepresentation was made negligently, intentionally or innocently **(2)**.
- (Maximum 14 marks)**
- 5.4 The contract is illegal **(2)** and not enforceable **(2)**. None of the parties may claim performance from each other **(2)**.
- (Maximum 4 marks)**

PRESENTATION [10]