

**PROGRAM** : LLB

**MODULE** : APPLIED LEGAL STUDIES

**CODE** : ALS41Y0 / TPR 0000

**DATE** : WINTER EXAMINATION – 1 JUNE 2018

**DURATION** : 3 HOURS

**WEIGHT** : 50% of the first semester

**TOTAL MARKS** : 100

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**EXAMINERS** : MR EJ HANEKOM  
PROF DS DE VILLIERS

**MODERATOR** : PROF R CLOETE

**NUMBER OF PAGES** : 6 PAGES

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**INSTRUCTIONS** :

- 1) Question papers must be handed in.
- 2) Answer all the questions.
- 3) Apply all the guidelines of clarity to all your answers.
- 4) You may not make up any facts unless the instructions at the question specifically grant permission to do so.
- 5) Questions may be answered in any order.
- 6) Simple and sometimes inappropriate language is used in order to assess your level of skills.

**REQUIREMENTS** : 1 EXAMINATION SCRIPT

**SUBJECT NAME: APPLIED LEGAL STUDIES – ALS41Y0 / TPR 0000**

**QUESTION 1**

You are an attorney. You discuss a case on the phone with one of your clients. The discussion is about a possible settlement in the client's divorce case. The client gives you specific instructions to draft a settlement proposal and that you must convey that to the opposition and to arrange a round-table meeting with the opposition as well.

After this telephone conversation, what step will you take to ensure that you understood the client's instructions correctly and that there is no misunderstanding between yourself and your client? Explain. [5]

**QUESTION 2**

What would you regard as the rules of "clarity" that applies to sentences in legal drafting? Explain. [6]

**QUESTION 3**

The Children's Act 38 of 2008, sections 18(1) and (2) refers to parental responsibilities and rights that a person may have in respect of a child. What are they? [4]

**QUESTION 4**

Analyse the letter below. Indicate 15 aspects that are not good or correct format and explain briefly why the format is incorrect. [15]

University of Johannesburg  
Law Clinic  
Cnr University road and Kingsway  
Auckland Park  
Johannesburg

Mr. Yeagan Piet Naidoo  
321 Empire road  
Auckland Park  
Johannesburg

**LETTER OF DEMAND**

Dear Mr Yeagan Piet Beyl.

3/...

**SUBJECT NAME: APPLIED LEGAL STUDIES – ALS41Y0 / TPR 0000**

**COLLISION: Jenny versus Piet**

We are acting on behalf of Miss Jenna Jameson, who instructed us to address this letter of demand to you.

On 1 January 2013 you drove through a robot-controlled intersection in Johannesburg on the corner of President and Ntengi Piliso streets. The traffic light was red for traffic approaching from the direction of your motor vehicle.

As a result a collision occurred between your motor vehicle and our clients' motor vehicle.

The collision occurred solely as a result of your negligence including (but not restricted thereto) not keeping a proper lookout, not stopping at a red traffic light and driving through an intersection at an inopportune time.

As a result of your sole negligence our client sustained damages to her property in the amount of R 120 000,00 (one hundred and twenty thousand rand) as her 1999 Honda motor vehicle had been damaged beyond repair in the collision.

On behalf of our client, I the writer, hereby demand the amount of R 120 000,00 (one hundred and twenty thousand rand) from you, together with mora interest at 15.5% per annum calculated from the date of this letter to the date of payment.

Should you fail to pay the above-mentioned amount within 40 (fourty) days from the date of this letter, summons will be issued against you without further notice.

Best wishes

Johnny

**QUESTION 5**

Read the set of facts and then answer questions 5.1 and 5.2.

(You may not draft the whole Particulars of Claim!)

You are an attorney. Your client is Mrs Lucky Dubazana. Her husband, Mr Letlhokwa Dubazana is a politician in Nigeria. They got married in Kimberley on 1 April 1992, in community of property and they are still married.

They lived together in her house at 123 Fox street. This is right next to the Johannesburg Magistrates' Court. (She was born there and lived her whole life in Johannesburg.)

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You will represent Lucky in her divorce. Letlhokwa is committing adultery with another woman.

Letlhokwa belongs to a registered South African pension fund, named the “Hamba Kahle Pension Fund”.

Lucky instructs you that that she wants nothing from the marriage, except half of Letlhokwa’s pension fund. Lucky wants a payout in cash. She does not belong to a pension or provident fund.

Lucky and Letlhokwa agrees to settle their differences and that Lucky will go to court alone on the day of the divorce with a written deed of settlement. The case number is RC/GP/JHB 18/241.

**QUESTION 5.1**

Draft only those prayers that will come at the end of the Particulars of Claim that will give direct effect to Lucky’s instructions relating to the pension. (Do not for instance draft “A decree of Divorce”).

**[10]**

**QUESTION 5.2**

Draft the heading and the preamble to the Deed of Settlement.

**[8]**

**QUESTION 6**

**Read the set of facts and then answer the question below it**

**Set of facts**

You are working at a firm of attorneys as an attorney. The secretary at reception informs you that a new client, Miss A, has arrived and that the attorney who supervises you has allocated this client to you for an immediate consultation.

You consult with the client. Miss A informs you that she is the human resources manager at a well-known firm. She wants your legal advice regarding a criminal case that might be instituted against her. She is of the opinion that she will be charged with fraud.

The facts are that she has recommended that another employee, named X that worked with her, should be allowed to retire on early pension. The managing director then offered X a retirement package amounting to R 1000 000. X accepted it and retired early.

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After a year on retirement X however applied at the same firm to be re-appointed in his old position. Your client held the opinion that the early retirement of X was an immense loss for the firm, and she recommended that he should be reappointed. The managing director then made an offer to X to get his old job back. X accepted the offer and he now again works at the firm.

Another member of the firm's board of directors, director Y, is of the opinion that Miss A and X colluded unlawfully regarding X's early retirement and re-appointment. Y laid criminal charges with the police against A and X. Y is of the opinion that A and X committed fraud together in order to get their hands on the R 1 000 000 payout.

A tells you that she was honest and that she never colluded or committed fraud. She does admit that X gave her a little gift of R 50 000 after his early retirement.

A candidate attorney and a legal assistant from the firm of attorneys sat in during the consultation in order to assist you.

Evaluate whether the information that you received above is confidential or privileged and cover the following aspects in your answer:

- 6.1** Explain the meaning of the two concepts, what exactly each concept covers, how it applies to the set of fact and which persons are bound to keep it. **[15]**
- 6.2** Refer to and briefly discuss 2 relevant applicable cases to explain legal professional privilege. **[10]**

**QUESTION 7**

You are an advocate. You have been instructed by a Mr. Nair to act for him and also to defend him in court. The state alleges that he was involved in the illegal "rigging" of a tender process in order for his sister to obtain the tender. The tender was worth R 200 000 000,00.

Mr. Nair is also being sued by one of his former business partners, a Mr. Nkosi, for the amount of R 10 000 000. Mr. Nkosi alleges that he will lose this amount of money now that Nair is charged with corruption by the state. In this case Nkosi intends to call another of the former business partners, a Miss Zuma. Nkosi is also the principal state witness in the criminal case against Nair.

Nair instructs you to interview Nkosi and Zuma for purposes of both the above-mentioned cases.

Evaluate your chances of being allowed to do so with reference to current case law. The state is worried that Nkosi may be killed before the case. **[15]**

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**QUESTION 8**

You drive 16 minutes 40 seconds at 180 km/h. How far did you travel? Show all your calculations.

**[7]**

**QUESTION 9**

You buy a photocopier for your practice that costs R 25 000,00 VAT inclusive. How much VAT did you pay? Show all your calculations.

**[5]**

**---END---**