



<u>FACULTY</u>	: Law
<u>DEPARTMENT</u>	: Procedural Law
<u>CAMPUS</u>	: APK
<u>MODULE</u>	: INL 100 INTRODUCTION TO LAW
<u>SEMESTER</u>	: First
<u>EXAM</u>	: SICK EXAM JULY 2020 ONLINE

<u>DATE</u>	: JULY 2020	<u>SESSION</u>	: 08:30-11:30
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<u>ASSESSOR(S)</u>	: MS M PILLAY/ MRG BOUWERS
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<u>MODERATOR</u>	: PROF DS DE VILLIERS
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<u>DURATION</u>	: 3 HOURS	<u>MARKS</u>	: 60
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INSTRUCTIONS:

1. This paper has a total of 15 questions.
2. In respect of the multiple choice questions, please remember to read all the options in your question, before deciding on the correct applicable options and their respective alphabets, before indicating the correct choice from the answers provided.

3. In respect of the fill-in-the-blank questions, please ensure that you pay special attention to spelling, punctuation, capital letters, as well as the number of spaces required to be filled in.
4. In respect of your essay type questions, please read the entire set of facts, before attempting to answer. Also pay special attention to the different instructions provided in questions 3, 4 and 5 for those specific questions.
5. This paper has been drafted to be completed within 2 hours. All the questions add up to a mark of 60. BUT YOU HAVE BEEN GIVEN 3 HOURS WITHIN WHICH TO COMPLETE THE EXAM PAPER BECAUSE IT IS BEING ANSWERED ONLINE. ACCESS TO THE PAPER WILL THEREFORE END AT 11H30.
6. You have been granted 3 attempts to complete the exam, in the event that you have connectivity issues.
7. The last attempt will be marked.
8. VERY IMPORTANT: WHEN ANSWERING THIS EXAM PLEASE BEHAVE WITH INTEGRITY AND HONESTY. PLEASE ANSWER THE EXAM QUESTIONS WITHOUT OBTAINING ADVICE OR ASSISTANCE OF ANY KIND FROM ANOTHER PERSON THAT WOULD CONSTITUTE DISHONEST BEHAVIOUR.

QUESTION 1 (Multiple Choice)

[16]

1.1 Mpho wants to be admitted as an attorney. Which of the following will apply in respect of his admission?

- A. The application will be brought by way of notice of motion.
- B. The matter will be enrolled as an *ex parte* application because no other party has an interest in the matter.
- C. The application will be brought by way of summons.
- D. The matter will be enrolled as a rule *nisi* because other parties might object to the admission.

Options

- a. A and B only
- b. C and D only
- c. B, C and D only
- d. A and D only
- e. B and C only
- f. All of the above options are correct (A-D)

1.2 The trial stage in action proceedings include the following steps in respect of the plaintiff's case:

- A. Examination in chief: the defendant's legal representative questions the witness after the witness has taken the oath.
- B. Cross examination: The plaintiff's legal representative will cross-examine the witness to establish whether the witness is telling the truth.
- C. Taking the oath: If the defendant's witness has an objection taking the oath, the witness will be allowed to solemnly declare that she/he will tell the truth.
- D. Re-examination: After examination in chief, the witness is questioned again. The purpose of this is to eliminate any obscurities which may have arisen during previous questioning.

Options

- a. None of the above options are correct (A-D)
- b. A, B and D only
- c. B, C and D only
- d. B and D only
- e. All of the above options are correct (A-D)
- f. A, B and C only

1.3 Talita's parents gift her a little scooter for her 13th birthday. One week later, while riding her scooter, she loses control and rides it straight into her neighbour's garden. Her neighbour Emma, grows prized roses, all of which are destroyed by the incident. The total loss of these roses amounts to R100 000. It should be noted that Talita's boyfriend, Adam, broke up with her just a few hours earlier before the accident occurred, because his mother did not approve of the relationship. Emma, is Adams mother. Which of the statements below will apply to this set of facts:

- A. In terms of legislation, Talita can never be held responsible for the damages because she doesn't earn an income at the age of 13.
- B. Talita is held responsible in terms of the common law.
- C. Talita is held responsible in terms of the common law unless it can be proved that she lacked accountability.
- D. There is a rebuttable presumption that Talita possesses accountability for her actions.

Options

- a. None of the above options are correct (A-D)
- b. A only
- c. A and D only
- d. B, C and D only
- e. A and B only
- f. All of the above options are correct (A-D)

1.4 Justinian codified the Roman law with the *Corpus Iuris Civilis*. The work consisted of the following parts:

- A. The *Institutiones* which served as a textbook for law students.
- B. The *Digesta* which was the largest part of the codification, and consisted of the opinions of all jurists.
- C. The *Codex* which consisted of a collection of imperial legislation.
- D. The *Novellae* which contained all the new legislation passed by King Justinian, promulgated after the formation of the Code.

Options

- a. A and C only
- b. B and D only
- c. All of the above options are correct (A-D)
- d. B, C and D only
- e. A, B and D only
- f. None of the above options (A-D)

- 1.5 A speed camera clocks Frank driving his car at 100km/h in a 60km/h zone. However, Frank does this to rush his critically ill child to the hospital

- A. Frank can be charged with exceeding the speed limit
- B. Frank acts with negligence
- C. Frank acts out of necessity
- D. Frank acts in private defence

Options

- a. C only
- b. A and B only
- c. B only
- d. A and D only
- e. A and C only
- f. None of the above options are correct (A-D)

- 1.6 Once a prosecutor elects to charge an individual, a charge sheet will be drafted. This will set out the particulars of the alleged offence with which the accused is charged. The accused's attendance in court can now be secured by means of:

- A. An indictment
- B. An arrest
- C. A summons
- D. A summons, only if an arrest is not possible

Options

- a. B and C only
- b. D only
- c. All of the above options are correct (A-D)
- d. B, C and D only
- e. A, B and C only
- f. None of the above options are correct (A-D)

- 1.7 Lance is charged with the murder of his girlfriend. Which of the following courts will have jurisdiction to act as the court a quo?

- A. The High Court
- B. The District Division of the Magistrate's Court
- C. The Regional Division of the Magistrate's Court
- D. The Supreme Court of Appeal

Options

- a. A and C only
- b. A, B and C only
- c. A and B only
- d. All of the above options are correct (A-D)
- e. B and C only
- f. None of the above options are correct (A-D)

1.8 Eric is a lifeguard at a swimming pool. However, he falls asleep while on duty. While Eric is sleeping, a child dies as a result of drowning.

- A. Eric acts with negligence
- B. Eric acts with intention
- C. Eric can be charged with murder
- D. Eric can be charged with culpable homicide

Options

- a. A and D only
- b. C only
- c. B and C only
- d. B only
- e. A only
- f. None of the above options are correct (A-D)

QUESTION 2 (Fill in the blank)

[4]

- 2.1 The doctrine of precedent allows for legal _____, where cases with similar facts will be subject to similar decisions. (1)
- 2.2 Thabo loves his girlfriend dearly. They do everything together. His girlfriend is arrested for driving under the influence of alcohol. She needs to appear in court, He appears on her behalf as her attorney. Thabo is said to acting in an _____ capacity. (1)
- 2.3 Conduct that is aimed at overthrowing or jeopardizing the existence of the State is classified as the crime of _____. (1)
- 2.4 Once a charge has been laid, the task of the police is to investigate the complaint. In this regard, a file, also referred to as a _____ will be opened by the investigating officer in order to gather information. (1)

QUESTION 3

[10]

Zara Johnson has been at home under lockdown level 5 for 2 weeks due to Covid-19. She needs to go grocery shopping for food, since all her supplies have run out. She puts on her mask, as required by the law, and starts driving to the supermarket. She is so excited to be out of her house that she decides to text her friend, to ask him to meet her at the supermarket. Zara loses control of her car while texting with her mask on. She crashes into Samuel Floyd's car, just as he was crossing the road at a green traffic light.

Samuel is very upset. His car is a complete write-off and he wants Zara to pay for the damages. Zara refuses, since she feels that the accident was not her fault. She says that she could not see while driving her car because her mask made it difficult to be able to text and drive. She states that under normal circumstances she can text and drive "just fine". Zara feels that the accident is the governments fault and that the accident happened only because she was forced to wear a mask.

Samuel disagrees with Zara. He is of the opinion that she is responsible for the accident because she was texting and driving. He decides to institute action against her to recover his damages, which amount to R 420 000.

In light of the facts above, and in your opinion, provide a detailed explanation to Samuel as whether or not he will be successful in recovering his damages, and the process that may be used to institute action.

(Please note that your answer will be marked as a whole. If you merely type in information that you think is relevant, no marks will be given. Your answer needs to read as advice, follow a logical structure, and be concise and to-the-point. Correct spelling and punctuation will also be taken into account.)

QUESTION 4

[10]

Due to Covid -19, Anita has decided to decrease her financial obligations. She wants to sell certain assets and decrease her debt. She enters into an agreement with an estate agent to market and sell her R3 million house. She sells her luxury German car to Peter for R500 000. Peter obtains a loan from the bank to purchase Anita's car. He pays the purchase price to Anita, and takes delivery of the beautiful car.

During lockdown, Anita had to learn how to clean her house and bake her own bread. She has written a book about her experiences, and all the skills that she has had to learn. She sells the book via the online store, Babazon. Anita also writes about her husband and his bad habits in the book. She includes this information and many secrets about her husband in her book, without his permission. As a result, he loses his job because his clients do not want to conduct business with him anymore. He moves out of their home and rents his own townhouse. Anita doesn't care, because her book is selling like hot-cakes.

With regards to the above set of facts, identify 5 legal objects, together with their corresponding subjective rights and the reason for your answers.

(Pay attention to your language, leave a line between your answers, and number your answers 4.1 - 4.5.)

QUESTION 5

[20]

Please number your answers correctly and answer in sequence. This section will be marked as a whole. Only click on submit once you have completed ALL the questions (5.1 - 5.6). Pay special attention to the mark allocation.

The Directorate for Priority Crime Investigation (Hawks) have been investigating alleged Drug “Kingpin”, Ricky Bobby for several years. Mr. Bobby is believed to be at the center of South Africa’s largest drug syndicate. The billionaire is linked to various underworld figures and has been seen dining with several top law enforcement officials over the years. Hawks, together with the Crime Intelligence Counter Narcotics and the Gauteng K9 Unit searched Mr. Bobby’s lavish Hyde Park mansion and found a clandestine laboratory suspected of being used to produce methamphetamine (“crystal meth”). Mr. Bobby was arrested on the property and will appear in court on charges of manufacturing and dealing in drugs. With regard to the above scenario, answer the following:

- 5.1 Which court is best suited to hear the matter and why? (2)
- 5.2 What will the parties in the matter be known as? (2)
- 5.3 Identify the burden of proof as well as the party that bears the burden of proof. (2)
- 5.4 The accused pleads not guilty to the charges. The case is subsequently postponed to a later date for trial. Must the accused remain in custody until the date of the trial? Discuss fully. (6)
- 5.5 The accused’s trial commences a few months later. In each instance below, identify the type of evidence that is being tendered and the likelihood of its admissibility (provide a reason for your answer):
 - 5.5.1 The court visits the residence of the accused in order to observe the laboratory. (2)
 - 5.5.2 The State intends to question the accused's spouse to determine whether the accused had disclosed the nature of his business to her. (2)
 - 5.5.3 A witness (the accused's neighbour) testifies that he observed suspicious activity at the residence of the accused, for example, cars entering and exiting the

premises at odd times. Therefore, the witness believed that the accused must have been dealing in drugs. (2)

- 5.6 The accused is unhappy with the outcome of the trial. An appeal is subsequently lodged against his conviction. Which court has jurisdiction to hear the appeal? (2)

TOTAL: [60]
