



<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>	: June 2020 ONLINE

DATE : 9 June 2020 **SESSION** : 08:30-**11:30**

ASSESSOR(S) : MS M PILLAY/ MRG BOUWERS

MODERATOR : PROF DS DE VILLIERS

DURATION : **3 HOURS** **MARKS** : 60

NUMBER OF PAGES:

INSTRUCTIONS:

1. This test has 3 PARTS: PART A (QUESTIONS 1 AND 2), PART B (QUESTIONS 3 AND 4) AND PART C (QUESTION 5).
2. PART A consists of multiple-choice and fill-in-the-blank questions.
3. PART B and PART C are essay type questions.
4. 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.

5. 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.
6. 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.
7. 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.
8. You have been granted multiple attempts to complete the exam, in the event that you have connectivity issues.
9. 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.

PART A

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)

(2)

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

(2)

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)

(2)

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) (2)

1.5 Vanessa is charged with murdering her ex-husband. In this regard, which of the following applies?

- A. It is sufficient that the State proves conduct, unlawfulness and fault on the part of the accused.
- B. The case must be proved beyond a reasonable doubt.
- C. Vanessa acted with intention or negligence when she killed the deceased.
- D. The guilt of the accused must be the only reasonable inference to be drawn from the facts.

Options

- a. A, B and D only
- b. B only
- c. All of the above options are correct (A-D)
- d. B, C and D only
- e. B and D only
- f. None of the above options are correct (A-D) (2)

1.6 Which of the following statements are true:

- A. It is not necessarily the case that a suspect can be arrested only after a docket is opened and charge sheet is drafted
- B. Bail must always be granted if it is in the interest of justice to do so.
- C. A plea agreement can be entered into before an accused pleads in court
- D. If a convicted person is of the opinion that he was not given a fair opportunity to present his case, there may be grounds to review the case.

Options

- a. B and C only
 - b. B and D only
 - c. A and C only
 - d. A, C and D only
 - e. All of the above options are correct (A-D)
 - f. A and B only
- (2)

- 1.7 There are several principles which the court applies when evaluating the credibility of a witness. One such principle is the cautionary rule. Generally, the cautionary rule applies in the following cases:

- A. The evidence of a single witness
- B. In cases of sexual misconduct
- C. The evidence of children
- D. Character evidence

Options

- a. C only
 - b. B and C only
 - c. A and C only
 - d. All of the above options are correct (A-D)
 - e. A only
 - f. A, B, and C only
- (2)

- 1.8 It is discovered that the leadership of a fringe political party were conspiring to overthrow the government. The accused individuals are subsequently charged and brought to court. Which court has jurisdiction to hear the matter?

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

Options

- a. A only
 - b. A, B, C and D only
 - c. B and D only
 - d. C only
 - e. None of the above options are correct (A-E)
 - f. All of the above options are correct (A-E)
- (2)

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 _____. (1)
- 2.3 The test for _____ is what the reasonable careful person in the accused's position would have done. If the accused acted with a lesser degree of care than the reasonable person did, this is present in a particular case. (1)
- 2.4 Craig and his friend, Peter, enter into a contract for the sale of Craig's motorbike. Peter agrees to pay Craig R150 000, within 7 days after taking possession of the motorbike. However, Craig alleges that Peter only gave him half of the money. Craig wants the matter to be resolved as quickly and inexpensively as possible, but also desires some finality in the matter. You advise Craig that the best option would probably be to refer the matter to _____. (1)

PART B

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.)

PART C

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 - 5.5).

The Directorate for Priority Crime Investigation (Hawks) have been investigating alleged Drug "Kingpin", Tony Montana for several years. Mr. Montana 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. Montana's lavish Hyde Park mansion and found a clandestine laboratory suspected of being used to produce methamphetamine ("crystal meth"). Mr. Montana 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 What will the parties in the matter be known as? (2)
- 5.2 Which court is best suited to hear the matter and why? (2)
- 5.3 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)
- 5.4 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):

- 5.4.1 A witness testifies that one of the accused's former employee's (who has since relocated to another country and refuses to return out of fear for his life) told the witness that he personally observed the manufacturing of drugs on the premises belonging to the accused. (2)
- 5.4.2 The State produces evidence of the accused's previous conviction relating to the possession of illegal substances, after the accused testified that, as a respected businessperson, he would never be involved in such unscrupulous activities. (2)
- 5.4.3 A witness (the head of Crime Intelligence Counter Narcotics), who was part of the task force that raided the accused's property, testifies that he believes that the crystal shards found on the property was methamphetamine because of the particular odour when he entered the lab. (2)
- 5.4.4 The accused's child testifies that their primary residence is located elsewhere and that the property was, for the most part, occupied by one of the accused's employees. (2)
- 5.5 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]
