UNIVERSITY OF JOHANNESBURG

FACULTY	: LAW
DEPARTMENT	: PRIVATE LAW
CAMPUS	: KINGSWAY CAMPUS
MODULE	: LDL41Y0 LAW OF DELICT
SEMESTER	
EXAM	: SPECIAL EXAMINATION

DATE	: 9 FEBRUARY 2021	**EXAM TIME:**	:
ASSESSOR(S)	: DR F KHAN		
MODERATOR	: PROF M WATNEY		
DURATION	: 4 HOURS	**MARKS**	: 60

NUMBER OF PAGES: 6 PAGES

INSTRUCTIONS TO STUDENTS

1. This paper consists of 5 Questions. Answer **ALL** questions.

2. **Please ensure your surname, initials, student number and email address are on the word doc.**

3. **Please ensure your answer is legible.**

4. Do not type your answers in bold and capital letters.

5. **Submit your answer paper via blackboard. If students are experiencing connectivity issues then you can email your answer by no later than the end of the exam to franaazk@uj.ac.za. Late submissions WILL NOT BE MARKED. In the subject line of your email it should have the following info: YOUR NAME, STUDENT NO, DELICT SPECIAL EXAM FEBRUARY**

6. **Submit only ONCE.** Attach a read receipt if you need proof that it was received.

   If you have any enquiries during the EXAM, please email me.

7. Please take note: You may not seek assistance of a fellow student or the tutor. You may not use any part of another students' answers to complete this assessment. You are reminded that all relevant rules and policies of the University and the Faculty applies to this test. In regard to the assessment, the normal academic integrity rules apply. For example, this means that you cannot cut-and-paste material other than your own work as answers for this assessment.
   By undertaking this online assessment, you will be deemed to have made the following declaration:

   "I certify that my submitted answers are entirely my own work and that I have neither given nor received any unauthorized assistance in this assessment."

8. Good luck

QUESTION 1

[Total Q1: 10 marks]

QUESTION 2

Thuli is a celebrity who has built a successful career as a fashion model, television presenter, magazine editor and businesswoman. In December 2012, Thuli purchased a bicycle and related cycling equipment from Cycle Pro (Pty) Ltd. She continued browsing in the shop and, while trying on a cycling helmet in the shop, an unknown man took a photograph of her. She made a few more purchases and then left the shop.

A few weeks later Thuli is angered and embarrassed to learn that Cycle Pro (Pty) Ltd has published the photograph of her trying on a cycling helmet in an advertisement for the shop. It appears in a sales brochure titled "Hot Sales for Hot Cyclists". Her anger stems from the fact that Cycle Pro (Pty) Ltd has exploited her image for commercial purposes

without her knowledge and consent. Cycle Pro (Pty) Ltd has published a low-quality photograph of her in a poorly designed advertisement for its shop. Thuli is embarrassed, as she fears that her friends, colleagues and peers will assume that she consented to the publication of the photograph, thereby lowering her professional standards and standing. Thuli wishes to sue Cycle Pro for *iniuria* on the basis that its conduct amounts to an invasion of her privacy, alternatively, that it infringed her right to dignity.

Advise Thuli on the following:

Whether Cycle Pro (Pty) Ltd invaded her right to privacy, <u>alternatively</u> infringed her right to dignity.   [20 marks]

[Total Q2: 20 marks]

QUESTION 3

According to the once-and-for-all rule, a person has to claim compensation for all loss, past and future, and patrimonial and non-patrimonial loss, in a single action – if the action is based on a single cause of action. This rule, however, does not apply in all cases under all circumstances as there are both common law and statutory exceptions.

Discuss this statement and refer to case law in your answer.   [10 Marks]

QUESTION 4

Explain the factors in detail that one needs to prove in order to be successful in obtaining an interdict   [10 marks]

[Total Q4: 10 marks]

QUESTION 5

Discuss the different approaches taken by South African courts to the question of apportionment of delictual damages in cases of contributory negligence.

[10 marks]

[Total Q5: 10 marks]

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