



<u>FACULTY</u>	: Law
<u>DEPARTMENT</u>	: Private Law
<u>CAMPUS</u>	: APK
<u>MODULE</u>	: PER0000/LPF41YO LAW OF PERSONS AND THE FAMILY
<u>SEMESTER</u>	: First semester
<u>EXAM</u>	: Semester test 2

<u>DATE</u>	: 4 June 2019	<u>SESSION</u>	12:30:14:30
<u>ASSESSOR(S)</u>	: Dr AE Boniface / Mrs W Rosenberg		
<u>MODERATOR</u>	: Prof MM Watney		
<u>DURATION</u>	: 2 hours	<u>MARKS</u>	: 50

NUMBER OF PAGES: 3 PAGES (INCLUDING THIS PAGE)

INSTRUCTIONS:

1. Please write your surname, initials and student number on the answering paper.
2. Please answer all the questions on the answering paper.
3. The answering paper must be handed in alphabetically.
4. The question paper is handed in separately to the answering paper.
5. Good luck with the examination.

QUESTION ONE

- 1.1. What is the age of majority in South Africa? Explain why it is that age. (2)
1. 2. When the pregnant woman is a major whose consent is required to terminate her pregnancy when she is 5 weeks pregnant? (1)
- 1.3. Define a “prodigal”. (1)
- 1.4. Does a child born of a voidable marriage maintain his or her marital status if the marriage is annulled? (Your answer must not be longer than one sentence.) (1)
- 1.5. Compare a “juristic person” with a “natural person”. (2)
- 1.6. What are the requirements that must be met in order to use the *nasciturus* adage? (3)

QUESTION TWO

Nosipho, a pregnant woman, was walking to the shops when she was hit by a taxi that suddenly swerved off the road. Nosipho subsequently (later) gave birth to her child. The child was born with brain damage. As a result of this brain damage, medical specialists have said that the child will not be able to take care of himself and will need specialised nursing care for the rest of his life. Nosipho alleged that the child’s brain damage was caused by the negligence of the taxi driver. The taxi driver admitted that he acted negligently. Briefly discuss whether the child in this set of facts has an action for the injury that was inflicted while he was in his mother’s womb. Refer to case law in your answer. (Your answer should not be longer than ten sentences).

(10)

QUESTION THREE

- 3.1. Compare presumption of death in terms of the common law with the statutory procedure to obtain a presumption of death order. Answer in a table format. (6)
- 3.2. Explain briefly what sections of the Constitution are important for the Law of Persons. (3)
- 3.3. “The matter of anatomical donations is provided for in great detail by the Human Tissue Act [65 of 1998]” Robinson *et al.* 40. Answer the following questions:
- 3.3.1. Explain briefly who may consent to the use of a body or tissue. (3)
- 3.3.2. For what main purposes may a body, or tissue from a body, be used? Name these purposes. Also mention to what place or persons a body can be donated. (3)

QUESTION FOUR

Mr. Zenco married Miss Zinta. The wedding ceremony was held in Johannesburg at a beautiful lakeside venue. Mr. Zenco lives and works in London and flew to South Africa for the wedding. Miss Zinta, after the wedding known as Mrs. Zinta-Zenco, lived and worked in Pretoria prior to the wedding. Before their wedding Mr. Zenco heard “voices” in his head telling him that he must wear purple shoes and socks on the day of the wedding and that after the wedding ceremony he must do ten cartwheels on the lawn in front of the wedding guests and dance on every table at the wedding reception. Mr. Zenco then complied with what the voices told him and wore the purple shoes and socks and did ten cartwheels on the day of the wedding and danced on every table at the wedding reception. Mr. Zenco has never been admitted to a health care establishment for treatment for mental illness but has been seeing a psychiatrist as an outpatient for two years. Mr. Zenco’s friends describe him as “outgoing, eccentric and a fun guy”. Prior to the wedding the parties did not sign an antenuptial contract. Answer the following questions:

4.1. Explain briefly what the test is for mental illness, as defined by the South African courts. Also explain what the onus of proof is in cases relating to mental illness and who bears this burden of proof. Refer to case law and legislation where applicable. (10)

4.2. What determines the matrimonial property system of the parties in this instance? Explain. (5)

Total: 50
