



UNIVERSITY OF JOHANNESBURG

FACULTY OF LAW (AUCKLAND PARK CAMPUS)

**SUBMISSION OF FINAL EXAMINATION PAPERS
JUNE/JULY 2017**

MODULE NAME: APPLIED LEGAL STUDIES

MODULE CODE: TPR0000

LECTURER (S): MR. Eddie Hanekom

HEAD OF DEPARTMENT: Prof DS de Villiers

EXIT MODULE: YES/ NO Yes (only Assessment)

FOR EXIT MODULES:

EXTERNAL MODERATOR: / N/A Yet.

EXTERNAL MODERATOR FORM ATTACHED: /

INSTRUCTIONS:

1. How many of the following items will be required per student?

Examination script (4 pages) (8b boek = 1) (4b boek = 2)

Scanner sheet /

Other (please specify) /

2. How many students are still attending lectures (with a view to the number of examination papers required)? 280

SIGNATURE OF LECTURER:

/

DATE:

31 MAY 2017

**SIGNATURE AS HEAD OF
DEPARTMENT
(AS INTERNAL MODERATOR)**

/
DS DE VILLIERS

DATE:

31-05-2017

FOR ADMINISTRATIVE PURPOSES:

Noted: /

Date: /



PROGRAM : LLB
MODULE : APPLIED LEGAL STUDIES
CODE : TPR 0000
DATE : WINTER EXAMINATION - 2 JUNE 2017
DURATION : 2 HOURS
WEIGHT : 50% of the first semester
TOTAL MARKS : 60

EXAMINERS : MR EJ HANEKOM
PROF DS DE VILLIERS
MODERATOR : PROF R CLOETE
NUMBER OF PAGES : 4 PAGES

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

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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 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? 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

Read the set of facts and then answer questions 4.1 and 4.2.

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

You are an attorney. Your client is Mrs Omoni Onyeama. Her husband, Mr Yemi Onyeama 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.)

You will represent Omoni in her divorce. Yemi is committing adultery with another woman.

Yemi belongs to a registered South African pension fund, named the "Nzalo Umbrella Pension Fund".

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Omoni instructs you that that she wants nothing from the marriage, except half of Yemi's pension fund. Omoni does not yet know whether she wants a payout in cash or whether she wants the 50% to be transferred to a pension fund to which she belongs. She will decide this after the divorce is granted.

Omoni and Yemi agrees to settle their differences and that Omoni will go to court alone on the day of the divorce with a written deed of settlement.

QUESTION 4.1

Draft only those prayers that will come at the end of the Particulars of Claim that will give direct effect to Omoni's instructions relating to the pension. (Do not for instance draft "A decree of Divorce"). [10]

QUESTION 4.2

Draft only the following three clauses in the Deed of Settlement:

- (a) confirm that the Deed of Settlement is the whole agreement that prevents Yemi from ever claiming anything from Omoni ever again after the divorce; and
- (b) confirm that if, in the future Omoni is ever "nice" to Yemi and she does not enforce strict compliance with the Deed of Settlement, he will not be able to say that she now waived her rights; and
- (c) confirm how this Deed of Settlement may ever be amended in future.

[10]

QUESTION 5

There are a number philosophical bases for ethical decision making that may be of value to improve the standard of the South African legal practitioner's professional and ethical responsibility.

The legal profession has lately been accused by legal academics of being too "duty" or "rule" bound in its approach to legal ethics. This approach however relates directly to one of those philosophical bases.

Explain what you understand under a philosophy for ethics based on "duties" or "rules". [10]

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QUESTION 6

Read the set of facts and then answer the question.

Set of Facts:

An official of the department of Correctional Services, holding the post of a deputy-director, Liaison Services, had been responsible for the issue of a departmental media release which was published in the media. The press release stated that bail had wrongly been granted by a Judge to a prisoner who applied for bail pending the hearing of an appeal against the prisoner's conviction.

A warrant for the release of the prisoner had been issued, but the department of Correctional Services continued to detain him on the basis of a view that bail had 'erroneously' been granted.

The judge who had granted bail, upon reading a newspaper report dealing with the departmental 'viewpoint', issued an order calling on the director-general of Correctional Services together with the deputy-director, to appear in his court. He wants them to explain whether they had said what was conveyed in the newspaper report and whether it was indeed the opinion of the department of Correctional Services that the judge erred. If so, what is the basis on which the judge had erred. If they had no grounds for such a statement, what right do they have to publish in a newspaper statements that the judge had erred.

Question:

May such statements of criticism against a court and a Judge be published in the media?

- Is this "scandalising the court"?
- Where does this happen?
- What does this mean?
- Is there such a criminal offence and what procedure should the Judge use?

Explain the South African legal position and cite case law to support your argument.

[15]

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