



<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 2019

<u>DATE</u>	: 3 June 2019	<u>SESSION</u>	: 12:30-15:30
--------------------	---------------	-----------------------	---------------

<u>ASSESSOR(S)</u>	: MS M PILLAY/ MRG BOUWERS
---------------------------	----------------------------

<u>MODERATOR</u>	: PROF DS DE VILLIERS
-------------------------	-----------------------

<u>DURATION</u>	: 2 HOURS 15 MIN	<u>MARKS</u>	: 100
------------------------	------------------	---------------------	-------

NUMBER OF PAGES: 4 PAGES

INSTRUCTIONS:

1. Answer ALL THE QUESTIONS.
2. Number your answers clearly

QUESTION 1

[12]

Alan, an Australian medical student, decides to visit the University of Johannesburg's Auckland Park campus. He is in the country, visiting his maternal grandparents. While standing in the queue at the food court, he overhears a conversation between the INL 100 students standing behind him. They are discussing the different types of judgments found in the South African legal system. You are one of those students. Fully discuss the types of judgments that may be handed down by judges, the differences between them and their relevance as a source of law. (Marks will be awarded for correct spelling, punctuation and sentence construction.)

QUESTION 2

[18]

Read the following set of facts and identify the relevant legal object, the corresponding subjective right and provide a reason for your answer eg:

2.1 Fact in scenario below: Thing- Real right- X is deprived of her ownership. (Tabulate your answer).

Brad is an aspiring singer. He decides to record his very first album. He writes twelve of the songs on his album. The other two songs are written by his friend, Chris. Brad signs a recording contract with ZZ Records and receives a signing-bonus of R1 million. He is overjoyed and signs a contract of sale for a second-hand car for R300 000 from Zena. He takes delivery of the car three days later. He also decides to rent a double-story house from Sam.

QUESTION 3

[20]

Monique Smith is on her way to an interview at a highly respected auditing firm. While driving she approaches a four-way stop. She is of the opinion that she has right of way and so, after stopping, she continues to cross over the road. Lindy Clooney is texting while driving and thinks that she has right of way. She does not see Monique's car and crashes into it. Monique is incredibly upset, because not only is her car damaged, but she also misses her interview. Monique decides to institute action against Lindy for her damages. Lindy feels that she was not at fault.

Smith v Clooney 2018 (2) SA 231 (GP)

- 3.1 Indicate whether this matter is civil or criminal in nature and provide a reason for your answer? (2)
- 3.2 In which court was the matter decided? (1)
- 3.3 What is the name of the case? (1)
- 3.4 Identify the names by which the parties are known in this matter. (2)
- 3.5 What is meant by the term "*locus standi*". (2)
- 3.6 Identify and fully discuss the first document that is sent in this matter. (4)
- 3.7 Distinguish the procedure that needs to be followed during the trial stage of the court proceedings. (8)

QUESTION 4

[40]

Gavin and his wife attend a friend's birthday party one evening. On their way home, they witness an armed hijacking taking place at a traffic light. Upon witnessing the event unfolding, Gavin reaches for his firearm and begins shooting at the perpetrator. One of the bullets connects with the perpetrator, immediately incapacitating him. The man is subsequently rushed to the hospital but dies as a result of his injuries. With regard to the above scenario, answer the following:

- 4.1 Gavin is charged with murder. He is brought before the court where he pleads not guilty to the charge. The case is subsequently postponed to a later date for trial. Must Gavin remain in custody until the date of the trial? (Your answer should include the factors that will be taken into account in determining whether he should be kept in custody). (7)
- 4.2 The State intends to prove that Gavin acted with intention when he killed the perpetrator. Briefly discuss the various forms of intention. (6)
- 4.3 What are the defences that exclude unlawfulness, and will Gavin be able to rely on any one of them? Discuss fully. (4)
- 4.4 Provide a brief description of the remaining two elements of a crime. (4)
- 4.5 Gavin is apprehensive about disclosing certain facts to you. As his legal representative, you explain the principle of legal professional privilege. Briefly discuss the other forms of privilege. (6)
- 4.6 Gavin's trial commences on 1 April 2019. In each instance below, name the type of evidence that is being tendered and state whether it is generally admissible:
 - 4.6.1 The evidence of witness A who testifies that his friend told witness A that he had observed the incident. (2)
 - 4.6.2 CCTV footage of the incident is submitted as evidence. (2)
 - 4.6.3 Witness B testifies that she observed the entire incident. (2)
 - 4.6.4 Witness C testifies about Gavin's recklessness and refers to another incident where he pointed his firearm at someone. (2)
- 4.7 List the various stages in respect of the trial on merit. (5)

QUESTION 5

[10]

Mr Hassle would like to institute a number of civil claims against various individuals. He alleges that Rebecca, a landscaper, owes him R50 000 for damaging his property. Furthermore, he informs you that Gayle, a business owner, has not paid him R750 000 in terms of a business agreement that they had entered into. Finally, Mr Hassle alleges that he has loaned Stacey, an acquaintance of Mr Hassle, R5 000. Mr Hassle claims that Stacey has not paid him back.

- 5.1 In which court will he institute action against Rebecca? (1)
- 5.2 Which court will have jurisdiction to hear the matter involving Gayle? (1)

- 5.3 Identify the court best suited to deal with Mr Hassle's claim against Stacey and provide a detailed description of this type of court. (5)
- 5.4 Mr Hassle has a change of heart and does not wish to settle the dispute with Stacey through formal litigation. Name and briefly distinguish between the most common forms of ADR that Mr Hassle may turn to? (3)

TOTAL: **[100]**
