



**PROGRAM** : NATIONAL DEGREE  
*B ACC*

**SUBJECT** : **INTRODUCTION TO LAW 100**

**CODE** : **INL 100**

**DATE** : WINTER EXAMINATION  
8 JUNE 2018

**DURATION** : 14:00 - 16:15

**TOTAL MARKS** : 100

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**EXAMINERS** : MS M PILLAY AND MR G BOUWERS

**MODERATOR** : PROFESSOR DS DE VILLIERS

**NUMBER OF PAGES** : 4 (FOUR) PAGES INCLUDING THE COVER PAGE

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**INSTRUCTIONS** : WRITE LEGIBLY  
NUMBER YOUR ANSWERS CAREFULLY

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**QUESTION 1**

**[18]**

Read the following set of facts and identify the legal object, subjective right and provide a reason for your answer. For example: 1.1 Fact in scenario below: Thing- Real right- X is deprived of her ownership.

Johnny and Janet are childhood sweethearts and they have just had the wedding of their dreams. Johnny decides to buy a house in an exclusive estate. He arranges with the moving company to pack up all their belongings and move all the items to the new house. He also signs up for and starts a new job at a prestigious auditing company. On his first day at work, however, Johnny parks in the wrong parking spot. He parks in the reserved parking bay belonging to one of the directors of the company. The director has a really bad temper and in a fit of rage he rams his car into Johnny's car. The damage to Johnny's car amounts to R500 000. The director also steals Johnny's cell phone so that he can't call for help. Johnny is very upset. He decides to tell everyone in the company about the director's behaviour. He also adds some untrue statements about the director. The director loses his job as a result of these lies that are spread by Johnny.

**QUESTION 2**

**[32]**

Bill is on his way to his daughter's birthday party. He has just collected his daughter's three-tiered birthday cake and is driving within the speed limit, so that he can deliver the cake without incident. The taxi driver, Sam, driving behind Bill, is angry because Bill is driving too slowly. Sam decides to overtake Bill's car, and in doing so he loses control of the taxi. The taxi crashes into Bill's car, destroying the car and the cake. Bill is furious. He decides to institute action against Sam. Sam feels that he was not at fault, because Bill was "driving like an old lady" and that that he had no choice but to overtake Bill.

- 2.1 The law of civil procedure will apply in this matter. What three forms of relief may be sought using the law of civil procedure? (3)
- 2.2 Identify the type of procedure that will apply in the scenario above and provide a reason for your answer (2)
- 2.3 Bill thinks that he will need to prove his case "beyond a reasonable doubt". Is this statement correct? Explain fully. (3)
- 2.4 Who is *dominus litis* in this matter and what does this term mean? (2)
- 2.5 Identify the first document that needs to be served in such a matter, and fully explain what needs to be contained in such a document. (5)
- 2.6 List the pleadings that follow the document in question 2.5 above, and indicate who serves them. (You do not need to explain the purpose of these pleadings.) (6)
- 2.7 What does the term *Litis contestatio* mean? Explain fully. (3)
- 2.8 Fully discuss how the plaintiff's case will take place during the trial stage. (8)

**QUESTION 3**

**[40]**

Two friends, Paul and Alexis, decide to visit a local sports pub one evening in order to watch a football match. During the course of the evening, another group of intoxicated patrons start to hurl insults at the two men. Paul and Alexis try their best to ignore the trouble-makers, in the hope that they would stop. Instead, the group becomes more aggressive with their verbal abuse. Feeling rather uncomfortable with what has transpired, Paul and Alexis decide to leave the pub. However, the unruly men follow them to the parking lot, where they surround the two friends. The group proceeds to brutally attack Paul. During the assault, a terrified Alexis pulls out a pocket knife and fatally stabs the main instigator in his chest. This prompts the rest of the group to disperse. The police are immediately called to the scene of the incident and place Alexis under arrest. With regard to these facts, answer the following questions:

- 3.1 Alexis is charged with murder and is brought before court where he pleads not guilty to the charge. The case is subsequently postponed to a later date for trial. Must Alexis 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)
- 3.2 Identify and discuss the onus of proof in a criminal trial. (2)
- 3.3 What will the parties involved in this matter be known as? (2)
- 3.4 What are the defences that exclude unlawfulness, and will Alexis be able to rely on any one of them? Discuss fully. (5)
- 3.5 Provide a brief description of the remaining two elements of a crime. (4)
- 3.6 Alexis is apprehensive about disclosing certain facts to you. As his legal representative, you explain the principle of legal professional privilege. Briefly discuss the various forms of privilege. (6)
- 3.7 Alexis' trial commences on the 5 June 2018. In each instance below name the type of evidence that is being tendered and state whether it is generally admissible:
  - 3.7.1 The evidence of witness B who testifies that his friend told witness B that he had observed the deceased assaulting Paul. (2)
  - 3.7.2 The pocket knife is handed in as evidence. (2)
  - 3.7.3 Witness C (a barman at the pub) testifies that he observed the group of men insulting Paul and Alexis throughout the evening. He testifies further that the group followed the two men when they left. (2)
  - 3.7.4 Witness D testifies that she saw the group of men kicking Paul while he was lying on the ground. (2)
  - 3.7.5 The court visits the scene where the incident occurred. (2)
  - 3.7.6 Witness E testifies that the deceased was a frequent patron at the bar. She states that he is a known trouble-maker and has repeatedly abused other patrons. (2)

- 3.8 After the defence has closed its case, what are the final two processes at the trial on merit? (2)

**QUESTION 4**

**[10]**

Mr Miserly has to defend himself in a number of civil cases that were brought by people who have had business dealings with him. Rethabile, an interior decorator, alleges that Mr Miserly owes her R150 000 for work done. Lethabo, a property developer, claims that he entered into an agreement with Mr Miserly for the purpose of renovating his mansion. The cost of the renovations amounted to R1 000 000, none of which was ever paid to Lethabo. Justine, a close friend, also alleges that Mr Miserly has not paid her in terms of a business agreement that they had entered into. The amount that Justine claims is R350 000. Finally, Nathan, an acquaintance of Mr Miserly also wishes to institute action for R8 000 which he claims, Mr Miserly owes him.

- 4.1 In which court will Rethabile have to institute action? (1)
- 4.2 Which court will have jurisdiction to hear the matter involving Lethabo? (1)
- 4.3 Identify the court best suited to deal with Nathan's claim, and provide a detailed description of this type of court. (3)
- 4.4 Justine does not want to settle the dispute through formal litigation. Name and briefly distinguish between the most common forms of ADR that Justine may turn to? (5)

**TOTAL:**

**[100]**

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