



PROGRAM : NATIONAL DEGREE
BACC

SUBJECT : **INTRODUCTION TO LAW 100**

CODE : **INL 100**

DATE : WINTER EXAMINATION
JUNE 2017

DURATION : 14:00 - 16:00

TOTAL MARKS : 100

EXAMINERS : MS M PILLAY AND MR G BOUWERS

MODERATOR : PROFESSOR DS DE VILLIERS

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

INSTRUCTIONS : WRITE LEGIBLY
NUMBER YOUR ANSWERS CAREFULLY

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.

Tammy has finished studying her final year at the University of Johannesburg and graduates *cum laude* with her B Acc degree. She is employed at a prestigious company and signs her contract of employment on 1 April 2017. She decides to purchase a new motor vehicle since she needs to get to work safely. She takes delivery of the car 10 days later. Tammy starts a relationship with Zayne, a work colleague, but the relationship quickly sours and the couple break up. Zayne starts spreading rumours about Tammy to all at work, and as a result Tammy loses her job. She decides to institute action against Zayne. Two months after the trial ends, Tammy decides to go on holiday to recover from her ordeal and travels to India and Bali. She decides to write a book about her experiences. A week after returning home four robbers break into Tammy's house and steal all her jewellery.

QUESTION 2

[22]

Jason and his girlfriend Candy have just broken up. She told him that she needs to concentrate on her career and has no time for a relationship. He decides to go out with a few friends to have some fun and forget about his sadness. They walk into a pub and John sees his ex-girlfriend with her new boyfriend. Jason is extremely upset since he feels that Candy has lied to him. He goes outside into the parking lot and starts breaking Candy's car windows. He finds a metal stick and begins to hit her car causing a lot of damage. Candy is very upset and decides to institute action to claim the damages to her car. Jason feels that he had every right to damage Candy's car while she feels that his behaviour is out of line. Jason is of the opinion that the court will agree with him and that he does not have to pay for the damages.

- 2.1 Identify the parties in this matter. (2)
- 2.2 Identify and discuss the onus of proof that will apply in this scenario. (2)
- 2.3 Identify and fully discuss the pleadings that Jason will have to provide in this matter. (6)
- 2.4 Explain what is meant by the term "absolution from the instance". (4)
- 2.5 Assume that Candy is successful with the claim. Jason decides to ignore the court order. What are the consequences of him not abiding by the court order? Discuss fully. (6)
- 2.6 Explain the difference between appeal and review proceedings. (2)

QUESTION 3

[40]

The police are called to the scene of a shooting. On their arrival, they see John sitting on the pavement, with a gun in his hand. A few metres away, they see the deceased, Brad, with a bullet hole to his chest. The police immediately place John under arrest, who asserts that he is responsible for the death of Brad. With regard to these facts, answer the following questions:

- 3.1 John is arrested on the charge of murder and is brought before court. The case is subsequently postponed to a later date for trial. Must John 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). (8)
- 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 You are the legal representative of the accused. Explain the possibility of a plea agreement to your client, outlining the requirements, procedure and implications attached to a plea agreement. (7)
- 3.5 John is apprehensive about disclosing certain facts to you. As his legal representative, you explain the principle of legal professional privilege. Briefly discuss three other forms of privilege. (6)
- 3.6 While discussing the incident with you, John explains that the reason for shooting Brad was a result of him robbing a person at knifepoint. As John's legal representative, what would you advise John with regard to a possible defence? Discuss fully. (3)
- 3.7 John's trial commences on the 10 May 2017. As his legal representative, you tender a variety of evidence in order to prove his innocence. 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 Susan, told witness B that she had seen Brad rob an old woman at knifepoint. (2)
 - 3.7.2 Witness C testifies that she saw John shoot Brad only after Brad had leapt at the old woman with the knife. (2)
 - 3.7.3 Witness D testifies that he saw Brad walking down a street earlier that day with a knife on his waist. (2)
 - 3.7.4 The court visits the scene where the incident occurred. (2)
- 3.8 John is subsequently convicted of the crime of murder. He is understandably distraught about the outcome of the case. Discuss the options that may be available to a convicted person? (4)

QUESTION 4

[14]

Mr Crook, a shrewd businessperson, has to defend himself in a number of civil cases that were brought by people who have had business dealings with him. Dave, an independent contractor, alleges that Mr Crook owes him R 150 000 for work done. Vicky, a property developer, claims that she entered into an agreement with Mr Crook for the purpose of renovating his mansion. The cost of the renovations amounted to R 1 150 000, none of which was ever paid to Vicky. Mr Zwane, an ex-business partner and close friend, also alleges that Mr Crook has not paid him in terms of a business agreement that they had entered into. The amount that Mr Zwane claims is R 350 000. Finally, Garry, an acquaintance of Mr Crook also wishes to institute action for R10 000 which he claims, Mr Crook owes him.

- 4.1 In which court will Dave have to institute action? (1)
- 4.2 Which court will have jurisdiction to hear the matter involving Vicky? (1)
- 4.3 Which court will most likely hear the matter between Mr Zwane and Mr Crook?(1)
- 4.4 Identify the court best suited to deal with Garry's claim, and provide a detailed description of this type of court. (5)
- 4.5 Mr Zwane has second thoughts about resolving the dispute through formal litigation. Name and briefly distinguish between the most common forms of ADR that Mr Zwane may turn to? (6)

QUESTION 5

[6]

The Constitutional Court is the only court capable of hearing certain matters. In which cases does the Constitutional Court enjoy exclusive jurisdiction?

TOTAL:

[100]
