



PROGRAM: LLB
MODULE: LAW OF EVIDENCE AND LITIGATION TECHNIQUES
CODE: BWR0000/ LEL41Y0
DATE: 14 OCTOBER 2020 ONLINE AEGROTAT TEST (09:00–11:00)
DURATION: 2 HOURS
TOTAL MARKS: 40
EXAMINER: PROF D S DE VILLIERS
MODERATOR: MS M DU PREEZ
NO OF QUESTIONS: 3

INSTRUCTIONS:

Answer all questions

You should be able to complete the paper in 90 minutes. You do, however, have two hours available.

Answers may be typed and saved in a Word document/PDF or handwritten, photographed and saved as PDF. Photographed papers must be clear and legible.

All questions must be clearly numbered, but may be done in any order.

All answer scripts must be electronically uploaded on Blackboard. If this is not possible for whatever reason, the student must electronically submit the script to the lecturer via email within the allocated two-hour test period.

You have three attempts to complete the paper, but only your last attempt will be marked.

This is an open-book exam, and you are allowed to consult any of your material. You are not allowed to consult with or obtain assistance from any third party.

Use your own words, write in essay format and refrain from a copy and paste approach.

With case scenario questions, read the entire set of facts, before you start to answer.

Take note of marks allocated and of the indication of time to use when answering each question.

Refer to relevant decided cases where possible.

By answering this paper, you acknowledge and accept the University's rules on plagiarism and dishonest behaviour.

Question 1 [+/- 60 minutes]

One afternoon, *Speedy Powers* took his friends for a joyride in a new red Volkswagen Polo. Out of excitement, he drove above the speed limit and caught the attention of Constable *Angela* (Peace Officer) who, after noticing this, immediately chased after this car and asked *Speedy* to pull over. Before Constable *Angela* could say anything else, *Speedy* shouted, "This is not my car, I took it from the parking lot at the mall yesterday". Constable *Angela* immediately contacted sergeant *Bravo* and told him exactly what she saw and what *Speedy* told her. They then proceeded to arrest *Speedy* for the crime of theft and driving over the speed limit. At the charge office Constable *Angela* opened a docket and filed her statement under A1. Two days later Constable *Angela* passed on.

Discuss the nature and all admissibility issues related to the statement by Constable *Angela* as filed under A1. (20)

Question 2 [+/- 15 minutes]

Mary, an elderly woman (80 years old) was the only one who identified the accused as the person who burgled her home. She makes a statement to the investigating officer that she saw the accused from 150m away. At the trial, she repeats her statement, but adds that her vision was "fuzzy" because she didn't have her glasses on at the time of the burglary. As the magistrate in this case, discuss how you would evaluate Mary's evidence. (5)

Question 3 [+/- 45 minutes]

During a rainstorm *Speedy* and *Conzales* were involved in a hit and run motor vehicle accident. *Speedy* whose *Mercedes* was written off, institutes an action for damages against *Conzales*, whose *Volkswagen Beetle* was only slightly dented. Moments after the accident occurred the driver of the *Beetle* drove off. *Conzales* admitted that he is the registered owner of the *Beetle* but denies that he was involved in the accident and that someone from his work must have borrowed his car. During the trial it become a point of dispute whether the road on which they were travelling had two lanes or four lanes and if *Conzales* was the driver at the time of the accident.

(a) Discuss the incidence of the onus of proof. (5)

(b) Is it necessary for any of the parties to supply evidence on the points of dispute, or can the problem be solved without any evidence being led? Discuss. (10)

TOTAL: (40)