

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATIONS

L584: CLINICAL LEGAL EDUCATION

MAY 2017

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

- 1 Answer **FOUR** questions.
2. All questions carry equal marks.
3. Do not use your names in any of your answers.

Question 1:

‘Malenyalo was widowed on the 5th anniversary of her marriage to Lefu Lefu, and two years after the birth of their only child, Lenyalo. ‘Malenyalo and Lefu were married in community of property.

Five (5) years after Lefu’s death, ‘Malenyalo remarried Monki in community of property; and she lived with him and her daughter, Lenyalo, in the house built by ‘Malenyalo and Lefu.

‘Malenyalo’s marriage to Monki was unfortunately short-lived as she died in child birth one year after marrying Monki.

Monki is desirous of making a will bequeathing property that includes the house he and ‘Malenyalo had lived in; and he comes to you for advice on what he intends doing.

Advise him.

[25 MARKS]

Question 2:

Draw a combined summons on behalf of Mokhanni, claiming damages against Sqoo.

The claim arises out of a collision between Mokhanni’s motor vehicle bearing registration number NUL 1 and Sqoo’s motor vehicle bearing registration number Selel 2. The incident occurred along Kingsway public road on the 1st January, 2017. Mokhanni’s vehicle was damaged beyond economic repair as a result of the collision.

[25 MARKS]

Question 3:

Lipaputla recently appeared before the Thutong Magistrates’ Court charged with assault with intent to do grievous bodily harm. The charges followed an incident that happened between Lipaputla and the owner of Banoi Public Bar (BPB) who had accused Lipaputla of not paying for the drinks he had partaken of at the bar.

Lipaputla represented himself at the trial because the court had refused his application for a postponement of the matter on his arraignment, to enable him to get legal representation. At the trial, the presiding Magistrate, Ntloana-tšoana Esq. hardly wrote down any of the questions put to prosecution witnesses by Lipaputla saying they were just rubbish. Lipaputla sought to call witnesses in the matter but the court said he was merely delaying the inevitable and proceeded to find him guilty and sentenced him to three years' imprisonment. Lipaputla feels his trial was a sham and would like to seek redress for the injustice meted out to him.

Lipaputla engages your services to help him out of his situation.

Draw the papers necessary to address his grievance.

[25 MARKS]

Question 4:

Bakoloti Bank (BB/ the Bank) recently sued Jelete, the well-known multimillionaire businessman of City Mafefs "for M50 000 (fifty thousand Maloti) being the balance owing on the loan advanced to Jelete" to build his multimillion "Wonderland Housing Estate". The Bank also sought to have Jelete's Cheleteng Business Centre valued at M10 million, that he had mortgaged as security for the loan with the bank, declared specially executable. Jelete handed the summons to his lawyers to defend him as he maintained that he had repaid the loan in full. Jelete was, however, shocked when, a month later, he saw an advertisement for the sale of his house in the newspapers. He realised that the advertisement referred to the case whose summons he had handed to his lawyers to handle.

On enquiring from his lawyers, Jelete was informed that it appeared the junior lawyer who had been handed the summons inadvertently filed them away without taking the necessary action; and the Bank had obtained default judgment against Jelete.

Jelete approaches you for advice.

Draw the papers necessary to get Jelete appropriate relief.

[25 MARKS]

Question 5:

- a) Briefly explain the following techniques and their use in the course of a trial:
- i) Confrontation [5 Marks]
 - ii) Probing [6 Marks]
 - iii) Insinuation [6 Marks]
- b) Briefly discuss the different parts into which a well-structured examination-in-chief may be divided. [8 Marks]
- [25 MARKS]**

Question 6:

Mosali and Monna have been married in community of property for fifteen years and have two minor children born of their marriage aged 8 and 10 years. One is a boy and the other is a girl. Mosali and Monna amassed a lot of movable and immovable property during their marriage. Mosali contributed 60% of the property of the joint estate while Monna contributed 40%.

The parties have just emerged from a bruising divorce case and cannot agree on custody and what to do with their estate.

The trial court granted divorce on the ground of Mosali's malicious desertion and then directed the parties to negotiate a settlement of ancillary matters.

Assuming that you acted on behalf of Mosali in the matter, explain the strategy you would adopt at the negotiation table. Would your strategy be any different if you acted on behalf of Monna? [25 MARKS]