

**NATIONAL UNIVERSITY OF LESOTHO**

**FACULTY OF LAW**

**LL.B FINAL EXAMINATIONS**

**L584 - CLINICAL LEGAL EDUCATION**

**MAY 2018**

**MARKS: 100**

**TIME: 3 HOURS**

**INSTRUCTIONS:**

1. Answer any **FOUR (4)** questions
2. All questions carry equal marks
3. Do not use your name or that of any of your classmates in any of your answers

### QUESTION 1

Mokhanni's brand new Mercedes Benz motor vehicle was recently involved in a terrible accident at an intersection controlled by traffic lights. Mokhanni insists that the driver of the other vehicle is the one who caused the collision by driving through a red traffic light. The other driver disputes this and blames Mokhanni for doing exactly what Mokhanni accuses him of doing. Mokhanni is desirous of suing the other driver for damages arising out of this collision.

Mokhanni approaches you for legal assistance.

- a) Discuss a fact investigation plan and its role in litigation. **10 Marks**
- b) Draw a fact investigation plan in respect of the above facts. **15 Marks**

**[25 MARKS]**

### QUESTION 2

- a) Briefly discuss the different parts into which an examination-in-chief should ordinarily be divided. **10 Marks**
- b) Briefly discuss how the acronym, DTPA may be used to attain an effective examination-in-chief. **5 Marks**
- c) Discuss the factors that underpin inferential reasoning in civil and criminal matters. **10 Marks**

**[25 MARKS]**

### QUESTION 3

The Manganeng Urban Council has written Moitšokoli giving him ten days' notice to vacate the house he has been living in for years. The Council says the house is

slated for demolition as it was built without a permit. Moitšokoli disagrees that the house was built unlawfully and feels the Council is pursuing some vendetta against him. He approaches you to draw him court papers to stop the threatened demolition of his house.

Draw the necessary papers. You may refer to, but do not attach any documentary evidence to your papers. **[25 MARKS]**

#### QUESTION 4

a) Discuss the theory of a client's case.

**7 Marks**

b) Discuss the elements that make a good case theory.

**18 Marks**

**[25 MARKS]**

#### QUESTION 5

a) i) Read the extracts from the cross-examination of Crown witnesses in *Kali Lentšo v Rex* C of A (CRI) 4 of 1996 (unreported) by Defence Counsel (DC) as reproduced in M.A. Owori, "The Pitfalls of Inordinate Cross-Examination: A Comment on *Kali Lentšo v Rex*" 15,2 Lesotho LJ (2005) 227, and

ii) Briefly discuss the respects in which the cross-examination of the two Crown witnesses was poorly conducted:

##### **Cross examination of PW1:**

DC: Now let's go to Motimposo. You have told His Lordship today that when you got to Motimposo you found PW2 and the accused talked to him.

PW1: That is so

DC Can you tell His Lordship what the accused said to PW2?



PW1: My Lord, he explained to Makhama that the gun which he had lent him is the same gun which he used to kill Madona.

DC: Could you warrant officer [PW1] for purposes of clarity, repeat to His Lordship what actually the accused allegedly said to Makhama?

PW1: He said that bring that gun which you had lent me, I killed a person with that gun and that person was Madona.

**Cross-examination of PW6:**

DC: You said when he was arrested, he gave his explanation.

At this (sic) time he gave his explanation were you there?

PW6: I once (sic) been there at the police and the accused was already arrested

DC: You have (sic) been there when he was giving his explanation. You didn't answer the question.

PW6: Yes I as well talked to him and he also gave me his explanation

DC: What type of explanation was that?

PW6: Do you want me to explain?

HL: Yes witness.... [The rest of the Court's intervention has been deleted for the purposes of this question].

PW6: He explained that he went there to shoot Mahlomola, he said he had been told by his father that Mahlomola is stealing his cattle so that he just wanted him to reprimand Mahlomola that is the only explanation he gave.

**15 Marks**

b) Discuss the two important questions counsel has to ask himself or herself before deciding to cross examine a witness.

**6 Marks**

c) Discuss the rules of practice which should be observed in cross-examination.

**4 Marks****[25 MARKS]**

### **QUESTION 6**

a) Discuss the four factors that may impede effective counseling of a client.

**8 Marks**

b) Discuss how the funnel technique may contribute to an effective interview with a client.

**17 Marks****[25 MARKS]**