

**NATIONAL UNIVERSITY OF LESOTHO**

**FACULTY OF LAW**

**LL.B FINAL EXAMINATIONS**

**L481: THE LAW OF CIVIL PROCEDURE**

**MAY 2018:**

**MARKS: 100**

**TIME: 3 HOURS**

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**INSTRUCTIONS:**

1. There are **SIX (6)** questions; answer any **FOUR (4)**.
2. Write legibly and neatly; should you have to make any correction, simply ~~cancel through with a single line~~.
3. Legal authorities wherever used must be underlined.

### **QUESTION 1**

Write short notes on the following:

- (a) *Actor sequitur forum rei* (5 Marks)
  - (b) Residence of foreign companies (5 Marks)
  - (c) *Universitas personarum* (5 Marks)
  - (d) Joinder of parties (5 Marks)
  - (e) Claim-in-reconvention (5 Marks)
- (25 MARKS)**

### **QUESTION 2**

(a) With the aid of decided cases and other legal authorities, critically discuss the difference between exceptions and special pleas.

(15 Marks)

(b) With the aid of decided cases and other legal authorities, critically discuss the procedure of request for further particulars.

(10 Marks)

**(25 MARKS)**

### **QUESTION 3**

Adamoh, a Nigerian citizen and a jeweler, stays with Lerato, his girlfriend and 4<sup>th</sup> year LL.B student of the National University of Lesotho, at Mafefooane Girls' Hostels. Without telling Lerato, Adamoh took Lerato's Civil Procedure book which she had previously bought for **M290.00** from a Book Centre in Maseru, and decided to leave for Nigeria. Lerato came to know about Adamoh's clandestine intentions through a friend of hers, Palesa, that Adamo was intending to leave Lesotho in less than 24 hours time.

Lerato was over herself with anger because around the same time the previous year, Adamo sought to leave Lesotho with Lerato's laptop worth M4,500, concerning which Lerato approached the Maseru Magistrate Court which ordered the arrest of Adamo, and that Adamo must pay Lerato the amount of the value of the laptop. On that occasion, Adamo was released from prison but he is still indebted to Lerato in the amount ordered by the court.

Lerato approached you as her Legal Advisor. She requests that you approach the courts for the arrest of Adamo and payment of M4,500 and M290.

Using legal authorities to support your view, advise Lerato on the following:

(a) The procedure of arrest *tanquam suspectus de fuga* and whether Lerato has a cause of action against Adamo.

**(15 Marks)**

(b). The constitutionality of the procedure of arrest *tanquam suspectus de fuga*.

**(10 Marks)**

**(25 MARKS)**

#### **QUESTION 4**

Critically discuss the view that much as the summary judgment and provisional sentence are based on liquid document, the two procedures are substantially the same.

**(25 MARKS)**

#### **QUESTION 5**

Critically discuss the procedure and principles relating to the amendment of pleadings under the Law of Civil Procedure.

**(25 MARKS)**

#### **QUESTION 6**

Married women, minors, mentally disordered persons, prodigals and insolvents are under some disability as far as their capacity to sue or to be sued is concerned.



Critically discuss this view and identify, if it holds true, who may act on behalf of each of the categories of natural persons stated above.

**(25 MARKS)**

**(25 MARKS)**