

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL. B SUPPLEMENTARY EXAMINATIONS

L1306 – FAMILY LAW II

AUGUST 2023

MARKS: 100

TIME: 3 HOURS

INSTRUCTION:

Answer **FOUR** questions.

Question 1

With reference to case law, show why the defences of physical features and *Exceptio plurium concubentium* are insufficient in rebutting paternity.

25 marks

Question 2

Explain the ways in which parental authority can be acquired.

25 marks

Question 3

With reference to relevant case law, regional and international instruments, critically discuss the judgement in *Masupha v Morojele CIV/APN/95/2011*.

25 marks

Question 4

Mrs Kobe was an employee of Techno and Electrics. She died 7 months pregnant while at work as a result of the negligence of one of her colleagues. Her child survived following an emergency caesarean section, but was born with severe brain damage. Mr Kobe alleges the brain damage was a result of the negligence of Techno and Electric's employee. He wants to sue the company for M1,300,000.00 (One million, three thousand maloti) in damages.

With reference to relevant case law, explain the applicable law that Mr Kobe can rely on for the planned legal action.

25 marks

Question 5

Nandipha and Thabo are not married but have a 6-year-old daughter called Bonnie. The couple lived together with the child until Thabo was convicted of

several counts of rape of young girls. He has been released from prison following a programme approved by the Prime Minister allowing the release of about 500 inmates to ease overcrowding in prisons. Nandipha refuses to allow him to visit Bonnie fearing that he might molest her. She does not even allow him to talk with her via WhatsApp video calls like he used to while he was in prison.

Thabo has brought a matter against Nandipha before the Children's Court, seeking an order of access and Nandipha has defended it.

As a judge in the matter, explain if you would grant the order or not. Your explanation should include relevant case law and legal principles to guide the courts when dealing with children's matters.

25 marks

Question 6

(a) Ntate Chelete has three children with his late wife, and one adopted child called Lintle. Clause 6 of his will reads as follows:

“I leave my money held in my FNB cheque account 6290875444 to my children. They should all take equal shares.”

Ntate Chelete has since died, and the money in the account described in clause 6 of his will is M800, 000.00.

With reference to statutory law, explain the amount that Lintle is entitled to.

5 marks

(b) Ntate Chelete left a will before he adopted Lintle. In this will, Ntate Chelete did not leave anything to Lintle. What will be the available remedy for Lintle against the estate of Ntate Chelete upon his death?

5 marks

(c) 'Me Mokotla-oa-Chelete, the adoptive parent of a girl called Lerato, died without leaving a will. She also had two boys.

With reference to statutory law, explain if Lerato will be entitled to inherit from her adoptive parent's estate.

5 marks

(d) The natural parents of Fifi, an adopted child, have left a will and clause 2.5 of the will reads as follows:

“We leave M500.000.00 left in our bank account with Standard Bank Maseru, to our children. They should share equally.”

with reference to relevant case law, explain how much will Fifi be entitled to.

5 marks

(e) Mr and Mrs Antonio, from Italy, have submitted an application to adopt a child in Lesotho. They are both aged 40 and the prospective child is aged 4. They both have sufficient means of income and do not have a criminal record. As a Judge considering this application, explain if you would grant this application or not.

5 marks

[25 MARKS]