

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATION

L584 – CLINICAL LEGAL EDUCATION

MAY 2023

100 MARKS

3 HOURS

INSTRUCTIONS:

1. Answer **Four (4)** questions.
 2. Begin each answer on a fresh page.
 3. Ensure that you have written your student number on the answer sheet.
-

Question 1

Read the following story and answer the questions that follow:

Khōhō Ralikhōhō, a retired 60 year old teacher from Maliele, Maseru district, recently invested three hundred thousand Maloti (M300 000.00) in a poultry business from which he expected to make an annual profit of one hundred thousand Maloti (M100 000.00) for the next ten years. This was according to the projections made by Khōhō's poultry business consultant, Mokōkō. Khōhō also expected to run this business for ten years after which he would hand it over to his son, Tsuonyana.

One night, however, Khōhō's dreams went up in flames as his chicken coop burnt to ashes along with all his ten thousand layers (10 000) that he had just purchased for M200 000.00.

Khōhō had, fortunately, installed a surveillance camera on his farm and he was able to identify his troublesome neighbour, Mohōnō Rakhopo, setting fire to the coop that is now a pile of smelly rubble from the rotting layers and their eggs. The police told Khōhō not to remove the rubble until they have conducted their investigations, but they have not shown up for a full week since the fire outbreak at the farm. It will cost Khōhō five thousand Maloti (M5000.00) to clear the rubble from his farm.

Khōhō wants to sue Mohōnō for damages arising out of the arson.

Draw Khōhō's declaration in the action he intends to bring against Mohōnō. Do not draft any other documents besides the declaration.

[25 MARKS]

Question 2

(a) Advocate Setlabocha was engaged by Machonisa to sue Ralokoloto for ten thousand Maloti (M10 000.00) loaned and advanced to Ralokoloto on the terms that the loan was repayable in 5 instalments of M2000.00 together with 20 per cent interest on the amount advanced. Ralokoloto paid one instalment and thereafter made one excuse after another for not paying until Machonisa instituted an action against him. Ralokoloto contested the action maintaining that he had paid the loan in full.

(b)

Assist Advocate Setlabocha to draw an opening statement in the action instituted by Machonisa against Ralokoloto. **10 Marks**

(c) Compare and contrast advice on evidence and a legal opinion.

10 Marks

(d) Why is the question “why” such an important but equally dangerous question for a cross-examiner to ask? **5 Marks**

[25 MARKS]

Question 3

Sebouleli, a resident of City Mafefs, Roma, and mine labourer at one of the diamond mines located in the Mokhotlong district, suspected his wife, Noboyana, of being unfaithful. He decided to install a tiny camera in his bedroom that was linked to his mobile phone so that he could monitor his wife’s behaviour while he was at work in Mokhotlong. The camera helped to confirm Sebouleli’s suspicions about his wife. Sebouleli produced still photographs of his wife and her paramour committing adultery and he handed over the incriminating evidence to Advocate Manyosi, a newly admitted advocate of the courts of Lesotho. Advocate Manyosi is unsure whether with the mountain of evidence at his

disposal showing Sebouleli's wife committing adultery, he would not be entitled to bring the matter by way of an application "to save everybody time and costs of a trial."

Manyosi approaches you for guidance on whether application proceedings would be an appropriate procedure.

Advise Manyosi.

[25 MARKS]

Question 4

Nana, an advocate of the High Court of Lesotho, leads an interesting lifestyle. One evening her university acquaintance and fellow lawyer, Mokhotsi, paid Nana a surprise visit at her Masowe III residence. Mokhotsi found Nana in the company of highly intoxicated, skimpily dressed men dancing to very loud music that one could hear kilometres away from the residence. The house was full of smoke that smelled like cannabis. Mokhotsi took Nana aside and tried to talk to her about what Mokhotsi described as Nana's unbecoming behaviour. Nana retorted that "what I do in the privacy of my home with consenting adults is nobody's business and I really do not care whether or not these men are married. Not even your meddling Law Society can tell me what to do in my house. This is a free country. As for the so called neighbours, they better buy ear plugs and keep the noise out, otherwise they just have to be strong."

Mokhotsi reported the incident to the Law Society Council that approached you for advice on whether Nana's behaviour constituted misconduct.

Advise the Council.

[25 MARKS]

Question 5

Thabo instituted an action against Mosali before the Maseru Magistrates Court claiming damages for defamation. The court dismissed Thabo's claim and he took the matter on appeal to the High Court but lost the appeal. Thabo is desirous of appealing further to the Court of Appeal.

Advise Thabo on everything he needs to do to have his matter ultimately heard by the Court of Appeal. **10 Marks**

- (a) Discuss the process which counsel has to undertake in order to determine whether to note an appeal and the grounds upon which such an appeal may be noted. **15 Marks**

[25 MARKS]

Question 6

- (a) On 1 May, 2023 Morui instructed attorney 'Muelli to institute an action against Ralokoloto before the High Court for an amount of M30 000.00 that Morui had loaned and advanced to Ralokoloto in October, 2022 on the terms that Ralokoloto would repay the amount with interest on or before 31 December, 2022. Deputy Sheriff Phethisa served Ralokoloto with summons on 2 May, 2023 and demanded thirty Maloti as his fees for the service of the summons. Ralokoloto did not defend the action. On 22 May, 2023 the court granted default judgment against Ralokoloto.

Draw a bill of Morui's costs of the litigation for taxation before the Taxing Master. **10 Marks**

- (b) Critically discuss the assertion that costs, any type of costs, are never an

adequate compensation for all expenses actually incurred in the pursuit of litigation.

15 Marks

[25 MARKS]