

SCL1501/ep/gd

EXAMPACK

SCL1501

LUCIANO SCHOOL OF LAW & SOCIAL SCIENCES [LSLSS]

January 2, 2015

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JUNE 2014

Section 1 / Part A

- **Question 1.1** Laws are set and enforced by organs of state whereas rules are set and enforced by organizations and individuals.

Laws are inflexible and carry stiff penalties while rules are more flexible and have lighter consequences

- when broken.

Question 1.2

- (i) The aim of punishment is to do something to a person because they have broken a law.
- (ii) Forms of punishment
 - Retribution
 - Deterrence
 - Reformation
 - Vindication
 - Reparation

Question 2.1

In studying, one acquires knowledge through critical consolidation of facts and actively involved in the study process whereas in learning, one is being taught and follow the teacher's instruction.

Question 2.2

- Questioning or interrogating the information.
- Gathering new ideas and information.
- Applying information to one's own life and in relevant situations.
- Interacting and discussion
- Students or the lecturer



Question 3.1

Banking education is associated with regarding students as empty containers which educators must deposit knowledge into. The students just grasp the knowledge without criticizing it.

Question 3.2

Dialogue is a conversation between two or more people. It is a core element of learning as information must flow from the teacher to the student and vice versa.

Question 4.1

Prioritizing involves treating something as the most important among others.

Question 4.2

What is important for me?

Which activities can I afford to give up?

What needs to be done urgently?

Question 5.1

- This except encourages one to choose a study group than studying alone. This is due to the fact that law practitioners always find themselves being part of a group in practice. For those who cannot manage to study with others in study groups may study individually but however they will at some stage be required to be part of a group in their careers.

Question 5.2

- Free flow of communication and chairperson.
- In this model there is a leader or chairperson responsible for the flow of communication even though group members may freely talk to each other. It is



suitable for a big group and the chairpersons see to it that the decisions taken are implemented.

- It is also used with biggest success.

SECTION 2

Question 1.1

Legal studies also involve mathematics when lawyers need to pay the employees' salary, work out consultation fees, divide estates, determine damages etc.

Question 1.2

The clients will lose confidence in their lawyer and it will be difficult to convince the court with bad numeric skills.

Question 2.1

$R450\,000 \div 3 = R150\,000$ each

Question 2.2

$(R12\,000 + R13\,000 + R11\,000 + R18\,000) \div 4$

$R54\,000 \div 4 = R13\,500$ is average income pm.

Question 3.1

Junior Maake is 36 % negligent

$36/100 \times R320\,000 = R78\,000$

$36/100 \times R242\,000 = R87\,120$

Junior Maake has to pay Fix Mogule R87 120

Fix Mogale is 53% negligent



Damage = $\frac{1}{4} \times R240\ 000 = R60\ 000$

$53/100 \times R60\ 000 = R31\ 800$

Fix Mogale has to pay Junior Maake R31 800

Junior Maake has to pay R87 120 R31 800

= R55 320 to Fix Mogale

Question 3.2

Salvage value is the value of an asset after it has come to the end of its useful life. After the accident, the Mercedes Benz was damaged to an extent that its useful life came to an end. The scrap which was left behind is worth R78 000 is its salvage value.

SECTION 3

Question 1.1

- Showing interest in Monadha
- Allow him to relax
- Enquire the client's name and how he would be preferred to be addressed as
- Talk about general issues\offer him a tea, coffee or a soft drink
- Reassure him about the confidentiality of the discussion.

Question 1.2

- Ask the client to give a short outline of what happened.
- Write down notes as she speaks.
- Ask him to stop if he is speaking too fast or if I want to make clarifications.
- Politely ask him to restart the story.
- Check all inconsistencies and deviations
- Remain focused on the facts of the story.
- Ensure that all the relevant information have been gathered from him.



Question 1.3

- Do not judge the speaker
- Use non – verbal communication to help the speaker relax and trust in you.
- Do not interrupt the speaker.
- Avoid disturbances like phone ringing etc.
- Do not quote examples from your own life
- Once the person has finished make a summary of what he/she said.
- Do not give advice unless you are asked for it.
- Ask questions if you need clarification.

Question 1.4

(a) Comprehensive opening address

Your worship

My name is xx

I act for the accused, Manadha

My client is charged with the offence of grievous bodily harm (GBH) done against Gooham that occurred on 1 March 2015 at Lenyenye township in Tzaneen.

I will call Makopini, a vendor operating within the area and Letsatsi, a friend of Monadha, who were all present when the alleged offence took place.

(b) Tell the court where you were on 1 March 2015

Do you know why you are here in court Mr. Monadha.

(c) My client Monadha is not guilty because he only acted in self-defense against Salojee and Goolam. Therefore he must be acquitted.

Question 2.1

(a) Argumentum ad hominem is when one goes off topic by attacking the arguer instead of the argument.



- (b) Argue from authority is when one introduce a name in an attempt to strengthen the argument.

Question 2.2

- Premises are statements, propositions, facts assumptions from which another is inferred or follows as conclusion.
- Conclusions on the other hand are judgments or decisions reached by reasoning.
- Examples of a premise and a conclusion are written below:
- Premise – Brazil is the home of soccer
- Conclusion – all Brazilians play soccer.

SECTION 4

Question 1.1

- An ombudsman in the South African legal system is an official appointed by the government who is charged with representing the interest of the public by investigating and addressing complaints reported by individual citizen.

Question 1.2

- The individual is seen as a fundamental actor because the legal system is created by the citizen to serve them and citizens agree to comply with the system.

Question 2.1

- The difference between the magistrate court and the high court.



- Magistrates preside in the magistrates’ courts whereas judges preside in high court.
- Magistrate court has a clerk of court whereas a high court has the registrar of the high court.
- The jurisdiction of a magistrate court is limited whereas a high court may hear any serious case that the magistrate court cannot.

Question 2.2

- Attorneys perform a wide range of legal; duties such as:
- Drafting of contracts, wills, power of attorney
- Litigation
- Representation
- Ex officio commissioner of oaths

Question 2.3

- Hear the case that is before the court
- Interpret the law
- Apply the law

Question 3.1

- Attorney
- LLB Degree
- Legal Articles of Clerkship or Articles of 1 year plus practical legal training
- Attorney’s admission examination

- Advocate
- LLB Degree
- Pupillage ranging from 4months to 1 year
- Bar examination



Question 3.2

Paralegals, legal, assistants, secretaries

SECTION 5**Question 1.1**

After it has been signed by the President and published in the Government Gazette.

Question 1.2

An appeal is an application to a higher court for a reversal of the decision of a lower court. The names of the appellant appear first and followed by the respondent's.

Question 1.3

In action proceedings the procedure is started by way of a summons.

Question 1.4

- The system of precedent argues that the lower courts are bound by the decisions of the higher courts.
- The hierarchy of courts involves the division of the courts into ranks.
- For the precedent system to operate, there are two requirements required that is the hierarchy of courts and an effective system of law reporting.

Question 1.5

Litigation is a lawsuit or an action brought in court to enforce a particular right.

Question 1.6

A statute is an Act of Parliament or legislation. It is important because it is a primary source of law.

Question 1.7

Costs are the expenses involved in the case e.g. own legal rep's fees and other party's expenses.

Question 1.8

- Legislation does not contain meaningless sections.
- Legislation does not want to change existing law unnecessarily.
- Unreasonable or unfair consequences are not envisaged.
- Legislation only applies in future not retrospectively.



NOVEMBER 2014

SECTION 1

Question 1

1.1(i) Social contract is the consensus of a group of people who have willingly united and agreed to a system of rules by which provides order protection and certainty in the situation

(ii) Legal processes often revolve around the individual member of society. The individual is a fundamental actor in the legal system and processes and may participate as an accused or complaint in a criminal matter, plaintiff or defendant in a civil matter or witness.

Question 1.2

Proxies is a process by which a theory or skill is practically applied. It is relevant to law students because it gives them an opportunity to practically experience the learnt skills like critical thinking, communication, research, numeracy and study skills.

Question 2.1

Intrinsic motivation is self-applied stimulation that drives an individual to adopt a behavior or study.

Extrinsic motivation is influence that emanates from the outside of the individual

Question 2.2

Extrinsic motivation is weaker than intrinsic motivation because extrinsic motivation unwillingly forces one to perform in a particular manner yet the person might not even have the ego to do so.

Question 3.1

- The group members must have and understand their common objective.
- Group members must observe house rules
- Group members must have their roles defined



- The group must be manageable
- Each member must contribute to the discussions
- Members must work cooperatively and with preparedness.
- Constructive criticism is essential.

Question 3.2

Group members can freely talk to each other.

The chairperson sees to it that the decisions taken are implemented.

Question 4.1

- Do not try to change the content and ideas of the original text.
- Read the whole text to ensure that you group the main ideas of the text.
- Find the key points that the writer uses.
- End the keywords
- Write simple language.
- Be objective and factual.

SECTION 2

Question 1.1

- Laying employees
- Charging consultation fees
- Calculating interest
- Apportionment of damages
- Rate of exchange
- Computation of time

Question 1.2

The law curriculum is mostly obsessed with theoretical learning as opposed to numeracy.



Question 2.1

$$R280\ 000 - 14\% = R240\ 000$$

Question 2.2

Mashele is 65% negligent and has to pay 65% of the damage done to the Ford XLT

$$\text{Damage} = \frac{1}{2} \times R280\ 000 = R140\ 000$$

$$65/100 \times R140\ 000 = R91\ 000$$

Mashele has to pay Dambuza R91 000

Dambuza is 25% negligent and has to pay 25% of the damage done to the Honda

Ballade Pre – accident value – salvage value = total damage

$$R160\ 000 - R40\ 000 = R120\ 000$$

$$25/100 \times R120\ 000 = R30\ 000$$

Mashele can only pay Dambuza

$$R91\ 000 - R30\ 000 = R61\ 000$$

Question 3

Comprehensive statement of account

Services rendered	Fees (AVT excl)	Expenses (VAT incl)
11 letters received	495	
13 letters written	1235	
13 letters posted		118.56
2 Summons	5300	
9 Affidavits	675	
Telephonic consultations (50mins)	1500	
Consultations (180mins)	3300	
Advocate fees		1710
Orthopedic surgeon fees		5586



	12505	7414.56
Plus VAT 14%	1750.70	
Plus expenses	7414.56	
	21670.26	

SECTION 3

Question 1.1

- Ask the client to give a short outline of what happened.
- Take notes as he speaks
- To stop him if he speaks too fast or if you want to clarify something.
- Politely ask the client to start the story from the beginning.
- Question 1.2
- Mr. Goolam how long have you been running the Mzansi Pub with Mr. Salojee ?
- May I get you something to drink like tea, coffee or soft drink?

Question 1.3

Leading question is a query that suggests the answer wanted. A lawyer must know that here where such questions may not be permitted. During examination – in chief leading questions are not allowed. But during cross – examination leading questions may be asked.

Question 1.4 (a)

A civil case because it is a dispute between legal subjects and the state is not involved.

(b) Comprehensive opening address

Your worship

My name is XX



I act for the plaintiff, Goolam \this is a claim for damages and expenses resulting from grievous bodily harm inflicted against my client at Lenyenye Township in Tzaneen. The parties differ on the quantum of the claim.

I will call Dr. Z, an expert in orthopedics and Mr. Salojee a co answer of Mzansi pub as witness.

(c) Mr. Monadha Letsatsi is it true that are well known to be an arrogant and violent person in your area?

Mr. Letsatsi did you know that the assault you did against my client could cause permanent injury on him?

Your worship.my client should be awarded a total amount of R20 000 in respect of the loss he suffered while seeking medication and loss of income since he had not been working during the time he was in hospital.

Question 2.1

Argument and when one goes off topic by attacking the aguer instead of the aguments. This aspect is important for legal practitioners because they do not have to utter such statement as they will not reinforce their case before the court.

Question 2.2

Deductive reasoning is the process of reasoning from one or more statements to reach a logically certain conclusion. On the other hand inductive reasoning is the opposite of deductive reasoning in which the premises seek to supply strong evidence for the truth of the conclusion.

Example of deductive reasoning

1. If Paul is sick, then he will be absent



2. If Paul is absent, then he will miss his classwork
3. Therefore , if Paul is sick, then he will miss his classwork

Example of inductive reasoning

1. Two independent witnesses claimed Mary committed the murder.
2. Mary's fingerprints are only the ones on the murder weapon.
3. Mary confessed to the crime.
4. So, Mary committed the murder.

SECTION 4

Question 1.1

Direct involvement

Proxy

Question 1.2

Legal practioners may represent the individual by proxy. Members' of society may encounter legal issues and challenges which require the assistance of attorneys, conveyances, notaries, paralegals.

Question 2 (i)

- (i) Para means associated in a subsidiary or accessory capacity. Therefore a paralegal is a person trained in legal matters and performs tasks associated with knowledge of the law and legal procedures. A paralegal work under an attorney or law firm and are not allowed to offer direct legal services to the public on their own.
- (ii) Contract of articles is any contract in writing under which any person is bound to serve an attorney for a specified period.
- (iii) Power of attorney is a written authorization to represent or act on behalf of another in private affairs, business or other legal matters.

Question 2.2



Notary public is an attorney admitted to practice as such by serving the public in matters concerning estates, deeds, power of attorney and foreign and international business.

Conveyancer is an attorney admitted to practice as such by serving the public in buying and selling immovable property.

SECTION 5

Question 1.1

- (i) Preamble is an introductory statement at the beginning of an Act which reflects the philosophy and fundamental values that led to the enactment of the Act.
- (ii) Long title is printed in bold and explains the purpose of the act.

Question 1.2

- (i) Presumptions are conclusions as to the existence or nonexistence of a fact until the otherwise has been proven.
- (ii) Legislation binds the future, that is from its enactment not time prior is enactment . for example the 1996 Constitution is binding events that occurred after its enactment.

Question 1.3

The Act has been signed by the President.

Publication in the Government Gazette

The date indicated in terms of the Act.

Question 1.4

Molefe is the appellant.

Mohaeng is the respondent.

1991 is the year the case was reported.

- (1) Is the first volume of 1991 law reports
- (2) SA stands for South Africa law Reports.



- (3) 562 if the page number on which the report of the case starts.
- (4) (SCA) means case was heard in the Supreme Court of Appeal.

Question 1.5

Ratio decidendi means the reason for the decision. It relates to the precedent system in that the ratio decidendi of a higher court binds the lower courts.

Question 1.6

- Minority judgment means one or more judges disagree with the majority and reaches a different conclusion.
- Separate judgment means a judge does not disagree with the conclusion of the other judges but has different reasons for his judgment.

Question 1.7

- If it's an action proceeding.
- When there is a fundamental difference between the parties as far as the facts of the case are concerned.
- When there is more than one party involved in the case.



JUNE 2013

SECTION 1

Question 1.1

The difference between law and rules enables law students to know which law or rule to apply in any given dispute or which parties it binds.

Question 1.2

Sports need laws that determine how a particular game should be played and the consequences of not adhering to those laws.

Question 2.1

Praxis is a process by which a theory or skills is practically applied.

Question 2.2

Skill will teach legal practitioners fundamental aspects like / communication, research, identifying legal issues, making strategic choices and presenting analysis both orally and in writing.

Question 3.1

Studying is a process of applying the mind to do as to acquire knowledge through critical consolidation of facts, summarizing and memorizing.

Learning on the other hand is the process of acquisition knowledge by being taught and following the teacher's instruction.

Question 3.2

Subjective being is associated with one getting involved and giving out personal opinion while banking education is a metaphor of students as empty containers which educators must deposit knowledge into.



Question 4.1

Internal motivation can easily improve one's position. Examples of external motivation are negative external motivation. If you do not pass all your first modules, you will not get a bursary.

Positive external motivation: if you pass your first year courses, you will be given a bursary.

Question 4.2

A learning contract is a pact or technique that encourages learners to take responsibility for their own learning and become self - directed learners. This contract is related to the internal motivation in the sense that the learner defines the nature of the learning experience, learning objectives, methods of accomplishing the learning objectives and determine what will be produced as evidence of accomplishment.

Question 5.1

Prioritizing means treating something as the most important thing in other words.

Question 5.2

The essence of prioritizing is that a student may come up with an informed decision on what to do at a particular time when stuck with the dilemma of conflicting demands.

Question 6.1

Dialogue is a conversation between two or more people. E.g., study groups

Question 6.2

The importance of dialogue in the study process is that, it can serve as a pool of motivation.



SECTION 2 PART B

Question 1.2

- The study unit, “study skills” enables students the following:
- To know their learning style and environment
- To understand the study process
- To manage time effectively
- To form study groups and understand group work.
- To make notes and summaries
- To prepare for and write assignments, tests and examinations

Question 1.3

The exploration phase entails that students must get background information about a topic or programme so as to become familiar with the work.

Question 2.1

An example of a negative external motivation is, “if you do not pass all your modules you register this semester you will not get a holiday trip to Hawaii.”

An example of a positive external; motivation is, “if you pass all your modules you register this semester, you will get a holiday trip to Hawaii.”

Question 2.2

- The relationship between learning contracts and timetables is that learning contracts contractually binds the student to take responsibility of his studies through internal motivation. On the other side timetables encourage students to achieve their learning contracts objectives through defining how a student may allocate their time to various subjects and activities.

Question 3.2



Prioritizing as a key feature in time management relates to how each task is to a student by weighing up the urgency against its value.

Question 3.3

- Timetables are essential tools for effective study they deal with problems such as :
 - ✓ Procrastination
 - ✓ Working under pressure
 - ✓ Imbalance in terms of time allocation to various subjects, activities and so on

Question 4.1

- Skills that can be acquired or learned by being part of a certain group are leadership socializing, life skills, self-confidence etc.
- These skills may be developed through observation, communication, participation, decision making and role fulfilment

Question 4.2

- The control figure has a person in the middle that is responsible for the flow of communication.
- It is suitable for simple tasks
- It is used in most meetings where all members address their comments through the chairperson.
- The disadvantage is that the central figure can be overloaded with information or he/she can block the flow of info.

Question 5.1

A summary is a brief account of the main points of something.

SECTION 2

Question 1.1

$(R198\ 000 + 320\ 000) - (R111\ 000 + R130\ 000) = R277\ 000$ is the value of the partnership assets.



Question 1.2

Tanya was 15% negligent and therefore has to pay 15% of the damage to Faro Pre –
accident value – value of wreck = total damage

$$R180\,000 - R70\,000 = R110\,000$$

$$15/100 \times R110\,000 = R16\,500$$

Tanya has to pay R16 500 to Faro

Faro was 85% negligent and therefore has to pay 85% to Tanya.

$$85/100 \times R20\,000 = R17\,000$$

Faro has to pay R17 000 to Tanya

It does not make sense that Faro pays R17 000 to Tanya but then Tanya must pay Faro R16 500. Faro can only pay Tanya $R17\,000 - R16\,500 = R500$

Question 2

Services rendered	Fees (VAT excl)	Expenses (VAT incl)
3 letters received	R60.00	
10 letters written	R350.00	
10 letters posted		R29.64
1 summons	R655.00	
10 Affidavit	R300.00	
Advocates fees		R1653.00
Consultations (90min)	R1050.00	
Telephonic consultations (90mins)	R300.00	



	R2716.00	R1682.64
Plus VAT 14%	380.10	
Plus expenses	1682.64	
	R4777.74	

SECTION 3

Question 1.1

- Asking the client to give a short outline of what happened.
- Taking notes as she speaks
- Stopping the client if she speaks too fast or if you want to clarify something
- Politely ask the client to start the story from the beginning.

Question 1.2

The importance of putting at ease during the first interview is to make clients and witness fact welcome and that you are willing to help them.

Question 1.3

Opening address

Your worship

My name is xx

I act for the plaintiff, Ngidi

This is a claim for damages resulting from a motor collision that occurred on January 2012 at the corner of Old Ford Road and Stranger Street in Durban.

The partners differ on the quantum of the claim.

I will call Dr. Y, an expert in reconstruction of accidents as well as Mrs. Z a panel beater as witnesses.

Question 1.4

Tell the court where you were on January 2012.

Do you know why you are in court today Mr. Ngidi?



Question 2.1

Body language complements a lawyer's level of professionalism.

It also conveys feelings, emotions and attitude.

Question 2.2

There qualities of effective listener

Be empathetic

Keeps your contact and responds accordingly.

Seeks clarification where there is any misunderstanding.

Question 2.3

A leading question is a query that suggests the answer wanted.

Question 2.4

- (i) An opening address is associated with introducing the matter to the presiding officer briefly and simply. Whereas closing arguments deals with persuading the court to follow your line argument and find in your favour.
- (ii) Examination in chief is conducted after the witness is sworn in and the witness tells the story logically, fluently and coherently and re – examination is done after the witness has been cross – examined and its purpose is to repair the damage done during cross – examination.

Question 2.5

The purpose of cross – examination is to contradict or lessen your opponent's case.

Question 2.6

Logic is a reasonable way of thinking that evaluates arguments. Its relevance is that it helps a lawyer to apply relevant law to a particular legal problem.

SECTION 4 / PART 1

Question 1

Question 1.1

An ordinary member of the society is considered to be an important role player in the legal system because the legal system is created by the citizens to serve the, the citizens agree to comply with the system and participate in various roles e.g. parties to civil or criminal litigation.

Question 1.2

Because they are entrenched and enshrined in chapter 9 of the Constitution.

Question 2.1

A legal practitioner is regarded as proxy in the legal system because members of society encounter challenges and the practitioners may be tasked act on behalf of the members of society.

Question 2.2

- The difference between attorney and advocate
- An attorney must do practical legal training for at least 2 years at a private firm of attorney while an advocate do practical legal training with one of the already qualified advocates for one year.
- An attorney must also write a board exam set by the relevant provincial law society where as an advocate write the Bar Council's examinations.
- All practicing attorneys belong to the law Society of South Africa and all advocates belong to one of the professional Bar Councils.
- Advocates have an automatic right to appear in all courts and in contrast. Attorneys do not have an automatic right to appear in the High Court.
- Attorneys perform a wide range of legal duties whereas advocates main function is to represent clients in court.



Question 3.1

The NDPP is vested with constitutional and legislation authority to institute criminal proceedings on behalf of the state.

Question 3.2

Difference between

- (i) State attorneys and
- (ii) State attorneys work in the service of the state, representing the state in all lawsuits and transactions concerning the state.
- (iii) State legal advisors provide legal advice representation and legislative services to the Executive and all state departments at both national and provincial levels, municipalities, parastatals and independent bodies.

Question 4.1

- Any appropriately qualified woman or man who is fit and proper person may be appointed as a judicial officer.
- Any person to be appointed to the Constitutional Court must also be a South African citizen.
- When judicial officers are appointed, the judiciary must broadly reflect the racial and gender composition of South African citizen.
- The President must appoint the judges of all other courts on advice of the Judicial Service Commission.

SECTION 4 / PART B

Question 1.1

Find the sources of law

Present research results correctly



Question 1.2

Primary sources of law are authoritative publications of law produced by law – making bodies e.g. common law, legislation, case law and custom.

- (i) Secondary sources of law are persuasive publications of law which do not create the law and do not bind a court e.g. books , journal articles.
- (ii) Paulus vs Paulus is an example of civil case
- (iii) SV Paulus is an example of a criminal case.

Question 1.3

It is important to know where to find the relevant court cases by using the reference to the case, the name of one of the parties or both which can be found in the case reference by consulting the indexes to the court cases and if there is no reference information by finding out whether there is any court case on a specific topic or if there is a court case based on a certain Act.

Question 1.4

This tendency amount to plagiarism in which she will be awarded a mark of zero and a disciplinary action may be taken against her.

Question 2.1

The significance of books and journal articles in research is that they form part of the secondary sources which have persuasive authority. Academics who have done their research on certain topics publish their results from time to time.

Question 2.2

A table of contents is found in front of the book, it gives and indicates per chapter what information you can find on which page in the book.

A subject index is found at the back of book in an alphabetical list of topics and the page number on which they appear in the book.



Question 3.1

When was the article published?

Who is the author of the article?

Question 3.2

Bibliography is a list of sources referred to in a research work and is written at the end of the research.

SECTION 5**Question 1.1**

A case is a lawsuit or legal dispute between opposing parties resolved by a court or by some equivalent legal process.

Question 1.2

The books that contain published court cases are called law reports. Two examples are South African Criminal law reports (SACR), South African law Reports (SA), Commercial Law Reports (CLR), South African Labour Law Reports (SALLR), and Butterworth's Constitutional Law Reports (BCLR).

Question 1.3

Headnotes contain summaries of the cases and all important aspects including the area of law, ratio of the case.

Question 1.4

The doctrine of precedent holds that lower courts are bound by the decisions of the higher courts.

Question 1.5

Legal principles are basic rules or truth that could be possibly used to decide the case.

Question 1.6

Any 3 of the following:

First, the facts are given

Second, there is a discussion of relevant legal principles

Third, the existing law is applied to the facts of the case.

Fourth, a decision is given in the light of the relevant legal principles.

Fifth, an order is given

Finally, an order regarding costs is made.

Question 1.7

A notice of motion is a formal notification to participants in litigation of intent to seek specific relief in an action on the stated date.

Question 1.8

Persuasive force or authority means sources of law, unlike binding authority which a court may consult in deciding a case.

Question 1.9

A Government Gazette publishes regulations and other notices in terms of the various Acts.

Question 1.10

Legal costs are the expenses involved in the case e.g. attorney's or advocate's fees and the other party's expenses.



NOVEMBER 2013

SECTION 1 / PART A

Question 1.1

- The functions of law
- Law governs human behavior
- Law should be obeyed by all of society
- Law is enforced by state organs
- By disobeying the law one may be prosecuted and punished.

Question 1.2

The difference between an Act and the law is that an Act is a legislation which is a n important source of law whereas the law is any recognized sources which is binding and control human behavior.

Question 2.1

- Banking education
- It is the metaphor of students as empty containers which educators must deposit knowledge into. This kind of education supports a lack of critical thinking and knowledge ownership in students. Banking education emphasizes teacher centric learning where students are passive absorbers of information and that the purpose of learning is memorization what they are learning.

Question 2.2

The relationship between subjective being and learning is that learning involves the acquisition of knowledge or skills through study or being taught and subjective being is an important aspect of learning, process through the application of personal opinion.

Question 3.1



- The quotation is encouraging students to form study groups. A study group is a small group of people who regularly meet for the purpose of discussing and sharing information of study.
- A group can serve as a pool of motivation being part of a group give you confidence to actively participate and engage in discussions.
- The group will bind, its members to carry out and contribute through tasks that may be assigned.
- Group members may bring different dimensions and aspects on how to carry out certain things in studies.

Question 3.2

- The group members must have and understand their common objective.
- Group members must observe house rules
- Group members must have their roles defined
- The group must be manageable.
- Each member must contribute to the discussions.
- Members must work co – operatively and with procedures.
- Constructive criticism is essential.

SECTION 2

Question 1.1

A lawyer is required to have numeric skills that enable him to understand and solve problems that are mathematical in nature. A lawyer will apply these skills in the following situations; paying employees their salaries. Consultation fees, divide estates, determining damages, calculating interest, apportionment of damages, rate of exchange among other. Poor numeric skills will prove the incapability and unprofessional of a lawyer thereby disadvantage him in practice.

Question 1.2



$$183 \text{ km} - 17\% = 151.89 \text{ km}$$

Question 2.1

$$\text{R}25\,000 \div 9.5 = \$\,2631.58$$

Question 2.2

Mabakaz was 35% negligent and has to pay 35% of the damage to the Ford Bakkie.

Question 2.2

Pre – accident value – value of the week = total damage

$$\text{R}226\,00 - \text{R}36\,000 = \text{R}190\,000$$

$$35/100 \times \text{R}190\,000 = \text{R}66\,500$$

Mabakaz has to pay Makhanda R66 500

Makhanda was 44% negligent and therefore has to pay 44% of the damage to the BMW

$$44/100 \times \text{R}85\,000 = \text{R}37\,400$$

Makhanda has to pay Mabakaz R37 400.

Since there is a counterclaim between Makabaz and Makhanda , only Makabaz has to pay $\text{R}66\,500 - \text{R}37\,400 = \text{R}29\,100$

Question 3

$$10 \text{ posted letters} = \text{R}3.70 \times 10 = \text{R}37.00$$

$$\text{R}37.00 + 14\%$$

$$= \text{R}42.18$$

$$\text{Advocate fees} = \text{R}1350 + 14\%$$



= R1539.00

Medical specialist fees = R4750 + 14%
= R5415.00

Total amount of expenses =	42.10
	1539.00
	<u>5415.00</u>
	<u>R6996.18</u>

SECTION 3

Question 1.1

- Research the applicable law.
- Write down the essential facts of the case
- Write down the relevant question that I will ask Dj. Janitso.
- Think of possible questions that the police may ask Dj. Jamitso.

Question 1.2

(a) Excuse me sir, may I refer you as Mr. Jamitso or simply Dj Jamitso?

This question will enquire how my client prefers to be called.

(b) How long have you been in the music industry Dj Jnitso?

this question is to make him feel at home and welcome

(c) May you tell me what happen at the Lataba GTFM Music Awards?

This question will give an opportunity to get the general sense of the case.

(d) Dj. Janitso, do you remember any person who was present when you received your award?

This question will let me know if there are any possible witnesses who may support my client's case.



Question 1.3

Legal practitioner

Question 1.4

Professionally and decently dressed

Sit up right

Look into his eyes when I ask question

My facial expressions must show sympathy and interest.

Vary the tone of my voice

Question 2.1

Opening address

Your worship

My name is xx

I act for the accused, Jamitso.

My client is charged with impersonating the police when he received and award at the Letaba – GTFM Music awards.

I will call Benson Molewa who was the MC at the event as a witness.

Question 2.2

The state, public prosecutor

Question 2.3

Objection your worship

In examination in – chief, leading questions must not be asked.

Question 2.4

- (i) Cross – examination involves the questioning of a witness by the party opposing the one who called the witness and on the other hand re –



- examination by the part who called the witness with the aim of correcting mistakes that might have been done during cross – examination.
- (ii) Argumentum ad hominem means attacking the a arguer instead of the argument whereas non – sequitur means the thing speaks for itself.

SECTION 4

Question 1.1

The South African Human Rights Commission monitors and assesses the observance of human rights in the Republic.

Question 1.2

The public protector

The Auditor General

The Electoral Commission

The Commission for Gender Equality

Question 2.1

An attorney and paralegal differ in the sense that a paralegal does not have a licence to practice law and serves in a supporting role to attorneys.

Question 2

Articles of clerkship means any contract in writing under which any person is bound to serve an attorney for a specified period. The articles of clerkship are part of the requirements needed in order for one to be admitted as an attorney.

Question 2.3

The advocate's main function is to represent clients in court. They have an automatic right to appear in all courts.

Question 3.1



Ordinary citizens create the legal system to serve around the individual member of society.

Question 3.2

Paralegal – a person working in a legal environment although not qualified to represent clients.

Candidate attorney means any person bound to serve under articles of clerkship or perform community service under a contract of service.

SECTION 5

Question 1.1

Coming into force mean a bill becomes an Act and it becomes effective either after publication in the Government Gazette or on a date specified in the Act.

Question 1.2

A legal action is a judicial proceeding brought by one party against another.

Question 1.3

Headnotes contain the summary of the case. They include all aspects of the case the editor considers important.

Question 1.4

The order is issued by a court of law determining some point or directs some step in the proceeding.

A judgment of the court is a formal decision made by a court following a lawsuit.

Question 1.5

The principle of judicial precedent holds that lower courts are bound by the decisions of the higher courts.



Question 1.6

The case name is the name of the parties involved in the case. The case name is important because it makes it easy to identify the case needed.

Question 1.7

A summon is a formal document used to order someone to be present as a defendant in a law court.

Question 1.8

A Government Gazette publishes regulations and other notices in terms of various Acts.

Question 1.9

Which aspects is the author addressing?

Which solutions are given?

Is it relevant information that can make a difference?

