

FACULTY	FACULTY OF LAW		
DEPARTMENT	PRIVATE AND PROCEDURAL LAW		
SUBJECT	LAW OF PERSONS		
SUBJECT CODE	LPPE 3501		
DATE	MAY/JUNE 2020		
DURATION	3 HOURS	MARKS	100

REGULAR EXAMINATIONS

EXAMINER: Mr. P.N SHOOPALA

MODERATOR:

This question paper consists of 3 pages including the cover page.

Instructions

- Read the questions carefully
- **Section A is compulsory and answer any THREE (3) questions from Section B**
- Each question carries 25 marks
- Underline or highlight sources.

SECTION A
COMPULSORY [25]

Question 1

Mavis and James, both unmarried, are involved in a sexual relationship as a result of which Mavis becomes pregnant. When Mavis is four weeks pregnant, she catches James in bed with another woman. Mavis terminates her relationship with James. Immediately thereafter, she meets Trevor. She does not disclose her pregnancy to Trevor. A month later she and Trevor get married. Seven months after their wedding, she gives birth to a baby boy, Sammy. Trevor suspects that Sammy is not his biological son and requests Mavis to submit herself and Sammy to blood tests to obtain certainty as to the child's paternity. Mavis refuses to do so.

- a) What is the presumption of paternity regarding a child who is born to a married woman? [5]
- b) Fully advise Trevor on whether the court can compel Mavis to submit herself and Sammy to blood tests. Substantiate your answer with reference to authority. [20]

SECTION B
(ANSWER ANY THREE (3) QUESTIONS) [75]

Question 2

Critically analyse the case of *Ex Parte Pieters* 1993 (3) SA 379 (D) and its importance to law of Persons. [25]

Question 3

Maria and Shawn, both unmarried, lived together for two years. When they separated, Maria was pregnant. She later gave birth to a son, Stan. Shawn contributed towards the hospital expenses and paid maintenance for Shawn. Maria agreed that Shawn could have access to his child. However, two years after Stan's birth, Maria refused to allow Shawn any further access to his child. Shawn approaches you for advice. Advise him fully, with reference to authority, on his position. [25]

Question 4

Mrs Shilongo, an expectant mother, was injured in a motor vehicle accident. Her child was subsequently born with a defect. As a result of the brain damage the child will never be able to take care of herself. The accident was caused by the sole negligence of the driver of the other motor vehicle. [25]

a) What do you understand by the nasciturus fiction? [10]

b) Can the nasciturus fiction be applied in this case? Discuss with reference to authority. [15]

Question 5 [25]**Question 5.1**

Mr X has been missing for 10 years since the light aeroplane in which he was travelling disappeared without a trace off the coast of Henties Bay. Mrs X has trouble administering her husband's large estate. She applies for a presumption of death regarding her husband, but her application is unsuccessful. Advise her on possible solutions to her problem. [15]

Question 5.2

Discuss how intoxication affects a person's capacity to act. [10]

Question 6

Discuss the court's decision on the constitutionality of the Choice on Termination of Pregnancy Act 92 of 1996 in *Christian Lawyers Association of South Africa v The Minister of Health* 1998 (4) SA 11 13; [1998] 11 BCLR 1434 (T). [25]

GOOD LUCK!

TOTAL MARKS 100
