

S E L 1 5 0 1

**SECTION 1
AFDELING 1**

Answer ALL the questions Your answers to the questions in this section must be written DIRECTLY on the examination paper in the space provided
Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.

QUESTION 1 / VRAAG 1

"No one is born an effective student Research has shown that there are certain ways of doing things (for example, academic skills) that, if seriously considered and practised, almost become part of you, and thus enhance your chances of being a successful student"

- 1 1 Reflect on the study unit, "Study Skills" in your module SCL1501, and explain how it has helped you to be a "successful student" (4)
- 1.1 **Dink na oor die leerafdeling "Studeervaardighede" in die module SCL1501 en verduidelik hoe dit jou gehelp het om 'n "suksevolle student" te wees. (4)**

Answer

- It has helped me to do effective note taking.
- I have been able to access the knowledge of the law, which I have to applied in your relevant lived situations.
- I have acquired research skills
- And prioritizing

- 1 2 What does the "exploration phase" of a study process entail? (2)
1.2 Wat behels die "verkenningfase" in die studieproses? (2)

ANSWER

This phase entails the generalizing of activities whereby you try to find information about the topic or programme. It involves that you, the student, get the necessary background information about the programme to be studied so that you become familiar with the work

QUESTION 2/ VRAAG 2

External motivation springs from the "outside" of an individual (eg a father who forces his son to study)

Eksterne motivering ontstaan "buite" 'n individu (bv 'n pa wat sy seun forseer om te studeer).

- 2 1 Using examples of your own, differentiate between negative external motivation and positive external motivation (2)
2.1 **Onderskei tussen negatiewe eksterne motivering en positiewe eksterne motivering deur gebruik te maak van jou eie voorbeelde. (2)**

ANSWER

With negative external motivation, fear is what pushes one to succeed. E.g. If you do not pass Skills Course for Law Students module (SCL1501) **you will not** be allowed to register for another LLB course.

Conversely the latter is due to promise of something good e.g.

If you pass your first year courses you will be given a bursary.

- 2.2 State the relationship between learning contracts and timetables (1)
2.2 **Verduidelik die verhouding tussen leerkontrakte en studieroosters.** (1)

Answer

It enables one to achieve the set goals and commitments thus avoiding the risk of breaching the contract.

QUESTION 3 / VRAAG 3

"It is indeed believed that at university level your ability to use time effectively plays a positive role in your life as a successful student"

"Daar word geglo dat op universiteitsvlak speel jou vermoë om jou tyd effektief te gebruik 'n positiewe rol in jou lewe as suksesvolle student"

- 3.1 Explain the concept "prioritising" as a key feature of time management (2)
3.1 **Verduidelik die idee van "prioritisering" as 'n sleutel element van tydsbestuur.** (2)

Answer

This means one looks at the available time at one's disposal and allocates that time to such activities according to their order of urgency and importance. More time will thus be allocated to the more important activities and less time to the less important ones. Similarly, one will attend to the more urgent issues before those that are less important.

- 3 2 Explain why timetables are essential tools for effective study? (2)
3.2 **Verduidelik waarom tydroosters essensiële hulpmiddels vir
effektiewe studie is.** (2)

Answer

There will be equitable allocation of time to all modules

Time tables prevent procrastination

QUESTION 4 / VRAAG 4

"Belonging to a group helps us to develop most of our thoughts, social skills and other behavioural patterns. As students you have to learn how to relate to other people: be it your fellow students, your lecturers, tutors, and so on"

"Deelname aan 'n groep help ons om die meeste van ons gedagtes, sosiale vaardighede en ander optrede te ontwikkel. As 'n student moet jy leer hoe om met ander mense oor die weg te kom: jou mede-studente, jou dosente, en so voort."

- 4 1 Try to think of skills in life that you have acquired or learned by simply being part of a certain group or community. List such skills and explain why you think they have been developed in this way (3)
4.1 **Probeer om te dink aan lewensvaardighede wat jy verkry of aangeleer het deur eenvoudig deel te wees van 'n sekere groep of gemeenskap. Noem die vaardighede en verduidelik waarom jy dink hulle op hierdie manier ontwikkel het.** (3)

Answer

I unconsciously learnt how to talk by being part of the family group.

I gained self confidence by socializing with other people.

Sharing by receiving from other people. Etc.

- 4 2 Discuss the "central figure" model as one of the ways in which a group can function (3)
- 4.2 **Bespreek die "sentrale figuur" model as een van die maniere waarop 'n groep kan funksioneer.** (3)

Answer

The person in the middle is responsible for the flow of communication. This model is suitable for simple tasks. A disadvantage is that the central figure can be overloaded with information or he/she can block the flow of information. This pattern of communication is used in most meetings where all members address their comments through the chairperson. The success of this method therefore depends a lot on the leadership abilities of the person in charge.

QUESTION 5 / VRAAG 5

"We do summaries so that, in future, we can be able to get what the original text is about without wasting time and going back to the original document"

"Ons maak opsommings sodat ons in die toekoms kan verstaan waaroor die oorspronklike teks gegaan het sonder om tyd te mors deur weer terug te gaan na die oorspronklike dokument."

- 5 1 In your own words, state what a summary is. (2)
- 5.1 **Verduidelik in jou eie woorde wat 'n opsomming is.** (2)

Answer

A summary is a short or brief way of representing the contents of the original text. Thus only the main important ideas of the original text will find space in the summary.

- 5.2 Read the following text written by Mfundekwa Mkhulisi, adapted from the *Sowetan* (Wednesday 07 October 2010), and capture the essence of the text in four narrative lines (4)
- 5.2 Lees die volgende teks wat geskryf is deur Mfundekwa Mkhulisi, aangepas en vertaal uit die *Sowetan* (Woensdag 07 October 2010) en som die essensie daarvan op in vier sinne. (4)

“Company toilet roll burnt my private parts, claims employee”

A response to the call of nature ended in a nightmare for a Katlehong, Ekurhuleni, woman when the tissue she used to clean herself “burnt” her private parts. The tissue was marked with spray paint because the company said employees were stealing toilet paper.

Nosipho Molefe* reported for work on July 15 at Trident Steel in Roodekop near Germiston. She later answered the call of nature.

"I went to the toilet. After I finished, I used a tissue to clean myself. I noticed that the tissue had a colouring on the edges, but didn't think there was anything wrong", Molefe said.

She said a few minutes after coming out of the toilet her private parts started "burning". "All the areas that were touched by the tissue were itchy and burning", she said.

She said she immediately informed her superiors because "the pain was unbearable". "They did not take me seriously. I then went to a nearby doctor because mine was far. The pain was killing me".

Molefe said she later learnt that the tissue was marked with spray paint because the company said employees were stealing toilet paper. According to a medical report, a copy of which is in Sowetan's possession, Molefe suffered from "combined urinary tract infection, intra-abdominal infection, ischemic heart disease and hyperlipidemia".

Molefe was admitted to Clinix in Vosloorus, where she spent 10 days receiving treatment. "The hospital charged me R26,000 and by the time I was discharged my medical aid was exhausted. I still owe the hospital about R1,000. I want the company to refund me because it was their fault", she said.

Trident Steel confirmed that it was aware of Molefe's complaint. "The company views the complaint as serious and is currently investigating the matter", said the spokesperson Tipten Terblanche.

~~"Mark on toilet paper my private data, not a brand of medicine."~~

Answer

Nosipho Molefe had her private parts burnt after using toilet paper containing spray paint.

She learnt that the company had marked the tissue with spray paint because employees were stealing it.

She has suffered a combination of urinary tract infection, intra-abdominal infection, ischemic heart disease and hyperlipidemia.

She has spent R26 000 in medical expenses and Trident confirmed that it was aware of Molefe's complaint and was investigating the matter.

SECTION 2 AFDELING 2

Answer ALL the questions Your answers in this section must be written DIRECTLY on the examination paper in the space provided
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QUESTION 1 / VRAAG 1

- 1 1 Why must an attorney have "numeric skills"? (1)
1.1 **Waarom moet 'n prokureur "rekenvaardighede" hê?** (1)

Answer

- As an attorney you will keep account of your clients' money in a trust account.
 - As an executor of an estate should be able to calculate monetary value of the estate, Master's fees, and administration fees of the estate.
 - Certain areas of law such as tax law or commercial require fairly advanced mathematics literacy.
- 1 2 Your client has to pay maintenance to her estranged husband What is her nett salary per month if she earns R19 000 per month, and her deductions are R2330 for PAYE, R920,50 for pension and R53,60 for insurance? (1)
- 1.2 **Jou kliënt moet onderhoud betaal vir haar vervreemde man. Wat is haar netto salaris per maand as sy R19 000 per maand verdien en haar aftrekkings is: R2330 vir belasting, R920,50 vir pensioen en R53,60 vir versekering?** (1)

Answer

$$= R19000 + R2330 + R920,50 + R53,50$$
$$= R22304$$

- 1 3 Malo, Lenzo and Fosta inherit R60 000,00 from their deceased father Malo gets half of the money, and Lenzo gets 1/3 of it How much will each of the heirs get? (2)
- 1.3 **Malo, Lenzo en Fosta erf R60 000,00 van hulle oorlede pa. Malo kry die helfte van die geld en Lenzo kry 1/3 daarvan. Hoeveel sal elkeen van die erfgename kry?** (2)

Answer

$$\text{MALO} = \frac{1}{2} * 60\ 000 = R30\ 000$$

$$\text{LENZO} = \frac{1}{3} * 60\ 000 = R20\ 000$$

$$\text{FOSTA} = R60\ 000 - R50\ 000 (30\ 000 + 20\ 000) = R10\ 000$$

- 1 4 If you pay Mokgadi, your secretary, R7 300 per month, how much will her monthly salary be if you give her an increase of 7,5%? (1)
- 1.4 **As jy Mokgadi, jou sekretaresse, R7 300 per maand betaal, hoeveel sal haar maandelikse salaris wees as jy dit met 7,5% verhoog?** (1)

Answer

$$7.5/100 * 7300 = 547$$

$$R7\ 300 + 547.5 \text{ (Increase)}$$

$$= R\ 7847.5$$

- 1 5 You pay a total of R320 000 in annual salary to your three secretaries. Linah, Maggy and Mmakole. How much will each get on the basis of the ratio 3 2 1? (1)
- 1.5 **Jy betaal in totaal R320 000 per jaar aan jou drie sekretaresse: Linah, Maggy en Mmakole. Hoeveel sal elkeen kry as die verhouding 3:2:1 is? (1)**

Answer

$$\begin{aligned} \text{LINAH} &= 3/6 * 320\ 000 \\ &= \text{R } 160\ 000 \end{aligned}$$

$$\begin{aligned} \text{MAGGY} &= 2/6 * 320\ 000 \\ &= \text{R } 106\ 666.67 \end{aligned}$$

$$\begin{aligned} \text{MMAKOLE} &= 1/6 * 320\ 000 \\ &= \text{R } 53\ 333.33 \end{aligned}$$

(Hint 6 is from adding 3 +2+1)

- 1 6 You want to update your library, and therefore decide to purchase a Tax Law textbook. Calculate the price of the book excluding VAT, if the book costs R468,50 VAT included (1)
- 1.6 **Jy wil jou biblioteek opgradeer en besluit om 'n Belastingreg handboek aan te koop. Bepaal die prys van die boek met BTW uitgesluit as die boek R468,50 kos met BTW ingesluit. (1)**

Answer

$$100/114 * R468,50 \longrightarrow \text{(That's the formula)}$$
$$=R 410.96$$

-
- 17 Last week Ngidi purchased a Hilux Bakkie valued at R189 000. Today he collides with Starros, the owner driver of a Mercedes Benz, at an intersection in Lenyenye. Ngidi is 56% negligent, whereas Starros' negligence is 30%. The damage to the bakkie is estimated at R65,000. It is uneconomical to repair the Mercedes Benz, but its salvage value is R19 000. The pre-accident value of the Mercedes Benz was R280 000. Calculate who must pay whom, and what would be the amount of damages. (2)

Answer

Ngidi was 56% negligent thus;

Pre- accident value – value of wreck (R280 000 – R19 000 = R261 000)

$$56/100 * 261 000 = R 146 160$$

Ngidi has to pay Starros R146 160

$$\text{Starros} = 30/100 * 189 000 = R 56 700$$

Starros has to pay Ngidi R56 700

It does not make sense that Ngidi pays R146 000 to Starro and then Starro to pay Ngidi R 56 000. Ngidi will pay Starro R 146 160 – R56 700 = R89 460

- 18 The distance between Khujwana and Lephepane towns is 150 kilometres. After the construction of a freeway the distance will be reduced by 16%. Calculate the distance after the completion of the freeway. (1)

Answer

$$16 / 100 * 150 = 24\text{KM}$$

$$150 - 24 = 126 \text{ KM}$$

QUESTION 2 / VRAAG 2

TT Thete, an attorney in Phalaborwa, arranged with his client, Mokgalaka, to account to him on a monthly basis His agreed remuneration is as follows

Every letter received R35

Every letter written R85

Drafting of a summons R 4 650

Drafting of an affidavit R65 per page or any part thereof

Consultation R450 per 30 minutes or any part thereof

Telephonic consultation R285 per 15 minutes or any part thereof,

Stamps R7 VAT excl

During the past month the attorney rendered the following services

Received 9 letters

Wrote and posted 13 letters

Drafted 2 x summons

Drafted an affidavit consisting of 7¼ pages,

Consulted twice telephonically, first for 26 minutes and later 16 minutes

Consultation twice, first for 6 minutes and later for 2¼ hours

Instructed an advocate to draft a document The advocate charged R980 VAT excl

Client went to consult an orthopedic surgeon at a cost of R 4900 VAT excl

Draft TT Thete's comprehensive statement of account to Mokgalaka (10)

Answer

SERVICES RENDERED	FEES	EXPENSES
	VAT included	VAT excluded
Wrote and posted 13 letters (13 * R85)	1105	
Received 9 letters (9 * 35)	315	
Summons (4650 *2)	9300	
AFFDAVIT (65 * 8)	520	
Consultation (450 *6)	2700	
Telephonic consultation (285 *4)	1140	
Stamps (13 * 7)		91
Advocates' fees		980
Surgeon fees		4900
	15080	5971
Plus VAT 14%		835.94
	8606.94	
	R 10 16.94	

**SECTION 3
AFDELING 3**

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QUESTION 1/ VRAAG 1

In order to answer the questions in this section, you will again have to read the newspaper text (adapted from the **Sowetan**) in section 1 of this examination paper

Om die vrae in hierdie afdeling te kan beantwoord, moet jy weer die koerantberig (soos vertaal en aangepas uit die Sowetan) in afdeling 1 van hierdie vraestel lees

Nosipho Molefe has decided to take legal action against her employer. She approaches you to act on her behalf in the matter.
Nosipho Molefe het besluit om haar werkgewer te dagvaar. Sy nader jou om namens haar op te tree.

- 1.1 State four aspects you will take note of when preparing for the first interview (or consultation) with her. (2)
- 1.1 Noem vier aspekte waarvan jy sal kennis neem wanneer jy voorberei vir die eerste onderhoud (of konsultasie) met haar. (2)**

Answer

Know the kind of information you will need for the file: personal details, addresses, employment, contact numbers, marital status, identity documents, birth certificates etc.

Research the applicable law. If, for instance, the matter is about your client's dismissal from work, you may have to refresh your knowledge of Labour Law.

Read textbooks on the issue and get relevant cases on dismissals and related topics. Make sure the cases deal with facts similar to the ones regarding your case.

Jot down the relevant facts or aspects that you consider essential to the case, or that which you think you might need to prove your case. These will inform the type of questions that you have to ask.

- 1.2. Write two useful questions you will ask her during the consultation (1)**
1.2 Skryf twee nuttige vrae wat jy haar wil vra tydens die konsultasie neer. (1)

Answer

What's your name?

How do you prefer to be called?

How are you feeling now etc?

- 1.3 After the consultation with your client, it has emerged that Topanama Khopho, one of your client's colleagues, witnessed her ordeal Write an introductory paragraph to ensure that she cooperates with you and the court in this matter (2)**

Answer

My name is..... I am representing mrs.....I kindly ask for your help to testify since you witnessed what happened. Your cooperation will be greatly appreciated.

- 1 4** The matter has now been brought before court Write four direct questions that you would ask Nosipho Molefe so as to give the court an overview of the matter (2)

Answer

Please tell the honorable court your name and occupation

Why are you in this court today?

What makes you sure that it was the toilet paper which burnt your private parts

Were you alone when the incident occurred?

- 1.5** Nosipho Molefe's employer has appointed Mr. Mailula Mahowa, an attorney at Modjadji House, to represent the company in the case Draft what you think would be his opening address (3)

Answer

As it pleases the court, my name is council.....and I am appearing before this honorable court on behalf of the respondent who happens to be the employer of the plaintiff. I will make my submissions to this court on three issues which will prove to this honorable court that the respondent has no liability as claimed by the plaintiff.

- 1 6** Assuming that Mr. Mailula Mahowa, your opponent, has finished his cross-examination of your client, now write your "prayers" as part of your closing argument (2)

Answer

- I pray that the court finds the conduct of the defendant wrongful and to be the cause of the patrimonial and non patrimonial loss suffered by my client.
- That my client be reimbursed of past, present and future medical expenses
- An order of costs on client to attorney scale.

QUESTION 2 / VRAAG 2

- 2.1 Why is Logic important for legal practitioners? (2)
2.1 **Waarom is logika belangrik vir regspraktisyns?** (2)

Answer

Logic is the study of rational thinking, and it is concerned with the structure of valid arguments. It helps lawyers to solve legal issues by argumentation

- 2.1 Using your own examples, explain 'inductive reasoning' (1)
2.2 **Gebruik jou eie voorbeelde en verduidelik "induktiewe redenering"** (1)

Answer

The form is the same as for deduction but the conclusion contains something new, something more in that it goes beyond the premises. On the ground of some observations, scientists make claims that cover ALL future instances, eg 'Water boils at 100 degrees centigrade', 'All objects gravitate to the centre of the earth', and 'Dreams have deeper meanings'

- 2.2 Explain fully the concept 'non sequitur' Use your own words and examples (2)

Answer

The conclusions that do not follow the premise that they are supposed to be derived from

Example:

Premise 1 My dog has a tail

Premise 2 All horses have tails

Conclusion My dog is a horse [False!]

QUESTION 3 / VRAAG 3

"Non-verbal communication can make or break a lawyer"

"Nie-verbale kommunikasie kan 'n prokureur maak of breek".

- 3.1 Use your own words to explain what "non-verbal communication" entails. (1)
- 3.1 **Gebruik jou eie woorde om te verduidelik wat "nie-verbale kommunikasie behels** (1)

Answer

Sending a message without written or spoken words.

- 3.2 What is the significance of non-verbal communication to a lawyer's work? (2)
- 3.2 **Wat is die belang van nie-verbale kommunikasie vir 'n prokureur se werk?** (2)

Answer

The importance of non-verbal communication to a lawyer's world of work lies on the fact that legal practice is based on persuasion and credibility. By way of an example, you have to somehow persuade your client that you can win the case, or you have to persuade the presiding officer (magistrate/judge) to accept your line of argument, and so forth. Non-verbal communication plays a very important role in this regard.

QUESTION 1 / VRAAG 1

Your friend doing a course in the social sciences has developed the habit of, amongst others, being dishonest in exams by using crib notes, and copying and pasting from numerous sources and presenting it as her own work. Advise her of the implications of this tendency (2)

Jou vriend wat 'n kursus doen in die sosiale wetenskappe het die gewoonte ontwikkel om, onder andere, oneerlik te wees in die eksamens deur krip notas te gebruik en deur te "copy and paste" uit verskeie bronne en dit as haar eie werk aan te bied. Gee haar advies oor die implikasies van hierdie neiging van haar. (2)

Answer

This is academic dishonesty called plagiarism and can result in serious disciplinary measures.

QUESTION 2 / VRAAG 2

When does an Act become effective? (2)

Wanneer word 'n Wet van krag? (2)

Answer

After the date of commencement as stated in the Act itself, or at a future date to be decided by the president by publication in the government gazette.

QUESTION 3 / VRAAG 3

Peter Ndou, a first year law student at the University of Tzaneen struggles to find legislation for his assignment. Advise him on how to find this source of law (3)

Peter Ndou, 'n eerstejaar regstudent aan die Universiteit van Tzaneen, sukkel om wetgewing in die hande te kry vir sy werkopdrag. Gee hom raad oor hoe om hierdie bron van die reg te vind. (3)

Answer

- On internet i.e. (www.gov.za)/SAFLII
- Some are published in the government gazette
- Library

QUESTION 4 / VRAAG 4

Mention at least two indexes that can be consulted in order to find case law (2)

Noem ten minste twee indekse wat gebruik kan word om verwysings van hofsake te vind. (2)

Answer

SA – south African Law Reports

QUESTION 5 / VRAAG 5

Where can we find common law? (1)
Waar vind mens die gemene reg? (1)

Answer

Writings of old Roman Dutch Jurists.

**SECTION 5
AFDELING 5**

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QUESTION 1 / VRAAG 1

What is the significance of the expression "signed text" in an Act? (2)
Wat is die belang van die uitdrukking "getekende teks" in 'n Wet? (2)

Answer

This means that whenever there is a dispute concerning any part of the Act, the signed version will be the official version.

QUESTION 2 / VRAAG 2

“When reading an Act, one has to consider the context that gave rise to that particular Act”. Explain what is meant by this sentence (2)

"Wanneer 'n Wet gelees word, moet die konteks waaronder die wet tot stand gekom het in ag geneem word". Verduidelik wat met hierdie sin bedoel word. (2)

Answer

This means one will look at external circumstances in explaining the reason the Act came into being. They will investigate the reasons why the Act was necessary. They might therefore also consider the socio-economic and political or historical scenario in which the Act was formulated.

QUESTION 3 / VRAAG 3

Name five components of a judgment (5)

Noem vyf komponente van 'n hofuitspraak. (5)

Answer

Judges names

Date the case was decided

Catch phrases fly/note

Head notes

Summary of heads of argument

QUESTION 4 / VRAAG 4

Is there any difference between “legal representatives” and “attorneys”?
Explain your answer (2)

Answer

The term, “legal representatives” refers either to advocates or attorneys. Thus there is no difference.

QUESTION 5 / VRAAG 5

Mention any five components of a case citation (5)
Noem enige vyf komponente van 'n hofsaak verwysing. (5)

Answer

Case name

Year and volume

Series of law reports

The page where the report starts

The court where the case was decided

QUESTION 6 / VRAAG 6

Use your own words to distinguish between a “flynote” and a “headnote” (2)
Gebruik jou eie woorde om te onderskei tussen “sleutelwoorde” en 'n “kopstuk”. (2)

Answer

The headnotes are also written by the editor of the law reports, who is employed by the publishers. The headnote is a summary of the case. It includes all the aspects of the case that the editor considers to be important.

Whereas

The catch phrases, also called a __flynote“, are the most important points with which the judgement is concerned. The catch phrases are put in point form and are separated by dashes. You use the catch phrases of a case to get a rough idea of what the case is about.

QUESTION 7 / VRAAG 7

What do you understand by the phrase “summary of heads of argument” in case law? (1)

Answer

The summary of heads of argument is a summary of the arguments and authorities which the lawyers presented to the court.

QUESTION 8 / VRAAG 8

Distinguish between an “order of the court” and an “order as to costs” (4)
Onderskei tussen "bevel van die hof" en "kostebevel". (4)

Answer

The former refers to the decision of the court e.g.

The conviction of the appellant is confirmed.

The sentence imposed by the magistrate is set aside and substituted by the following:

The accused is sentenced to pay a fine of R1 000.

Whereas;

The latter refers to the costs are the expenses involved in the case. Legal costs usually include both lawyers’ fees, and the expenses involved in running a case, such as fees for

subpoenas, witnesses, and getting copies of records, and expert reports. These expenses are called –disbursementsll.

QUESTION 9 / VRAAG 9

Compare the following “Plaintiff v Defendant” and “Appellant v Respondent”

(2)

Vergelyk die volgende: "Eiser v Verweerder" en "Appellant v Respondent".

(2)

Answer

The former is in the court of first instance when proceedings are instituted for the first time whereas the latter is on appeal. Whoever appeals is the appellant.

QUESTION 10 / VRAAG 10

Define the following legal concepts

Definieer die volgende regsbegrippe:

(i) *Animus iniurandi*

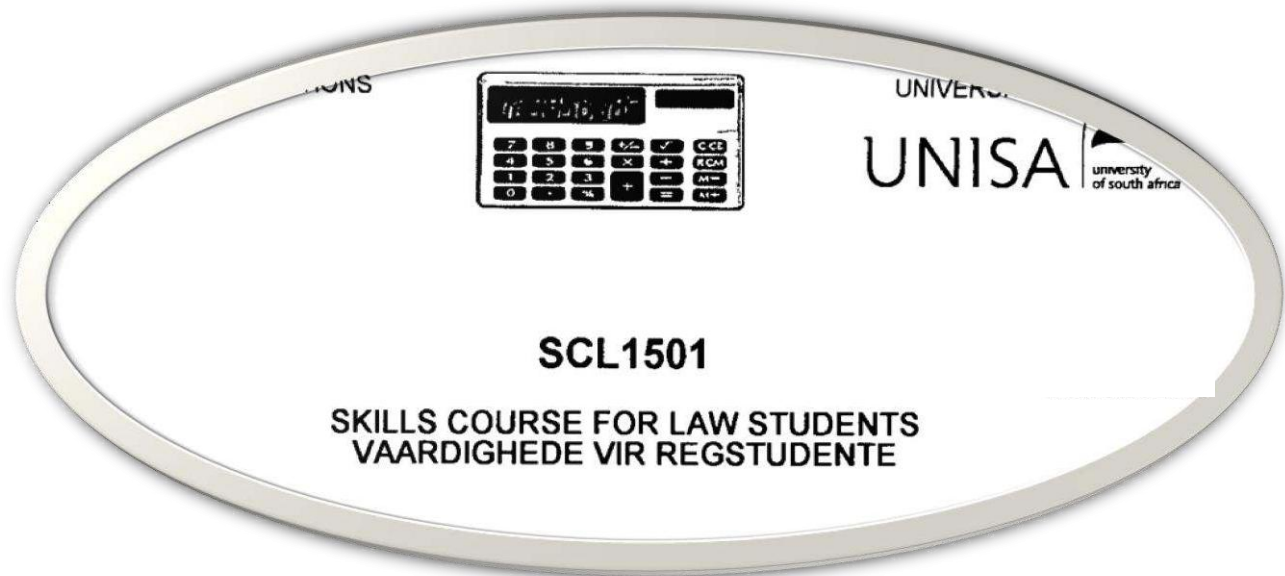
Answer

Intention to injure

(ii) *Volenti non fit iniuria*

Answer

To one consenting no wrong is done



QUESTION 1 / VRAAG 1

"Learning involves that the pupil (learner) actively, and as a subjective being, gets involved and participates in the process" (*SCL1014 Study Guide*, p 3)

"Leer veronderstel dat die leerder aktief en as 'n subjektiewe wese deel van die leerproses moet wees". (*SCL1014 Studiegids*, bl 3)

- 1.1 Explain why it is important for a learner to be regarded as a "subjective being" in the learning process (4)
- 1.1 **Verduidelik waarom dit vir die leerling belangrik is om as 'n "subjektiewe wese" van die leerproses geag te word. (4)**

Answer

As a subjective being, a learner gets involved and participates in the process. The concept 'subjective being' is important for learning. It presupposes that the learner is expected not to behave like an 'object' in the learning situation. In this regard, the learner will thus be expected to be an active participant with values, ideas, experiences and a mind that has the potential to reason critically. It brings about a more or less permanent change in the learner (that is, it has a meaningful impact on the learner).

QUESTION 2 / VRAAG 2

“As a student you will most probably at some point face a situation where you have to choose between certain things or activities” (*SCL1014 Study Guide*, p 11)

“Jy sal verseker in ‘n stadium tydens jou studies moet kies tussen twee of meer aktiwiteite” (*SCL1014 Studiegids*, bl 10.)

- 2 1 Using your own examples, explain what the concept “prioritising” entails (4)
- 2 1 **Gebruik u eie voorbeelde en verduidelik wat die konsep “prioritiserings” behels.** (4)

Answer

When one prioritises activities one looks at the available time at one’s disposal and allocates that time to such activities according to their order of urgency and importance. One will naturally allocate more time to the more important activities and less time to the less important ones. Similarly, one will attend to the more urgent issues before those that are less important.

It will thus be wrong to choose ‘going to a football match’ over preparing for the SCL1501 semester examination.

QUESTION 3 / VRAAG 3

“One easy way of ensuring that you stay motivated or focused on your studies is the idea of having a pact or agreement with yourself that you will stick to your programme of study” (SCL1014 Study Guide, p 9)

“’n Manier om positief te bly oor jou studies, is om ‘n onderneming met jouself te sluit, party noem dit ‘n leerkontrak. Plak hierdie kontrak teen jou muur om jou gedurig aan jou doelwitte en mikpunte te herhinner.” (SCL1014 Studiegids, bl 8.)

3 1 Now, draft your own learning contract In so doing, ensure that it includes all the key elements required for such a document to be realistic (5)

A *learning contract* is a binding agreement or pact that a student enters with himself or herself. It is like a personal mission or vision that a student has as his/her guiding principle in respect of his/her studies. It is regarded as seriously as one would if one had entered into an agreement with another person. Key or general characteristics of a contract should be present here (e.g. date, witnesses, signatures, place, breach clause, remedies and so on). A striking feature for learning contracts is manly that *only one party* (i.e. the student) is involved in the agreement. In other words, the student contracts with himself or herself.

Answer

It would look like;

Contract of learning between..... and

The parties are hereby bound to the following clauses;

Here state your vision and guiding principles.

.... And that in the event of breach of contract contractual remedies are applicable

Signed on this day of...../ month/ 2014 at.....

Signatures.....

Signature of witness 1.....

Signature of witness 2.....

QUESTION 4 / VRAAG 4

- 4.1 Explain the following remark relating to “the central figure” model of study groups (4)
- 4.1 **Verduidelik die volgende opmerking met betrekking tot “die sentrale figuur” model van studiegroepe: (4)**

“The success of this method therefore depends a lot on the leadership abilities of the person in charge” (*SCL1014 Study Guide*, p 15)

“Die sukses van hierdie manier van kommunikeer hang dus baie af van die leierseienskappe van die sentrale figuur”. (*SCL1014 Studiegids*, bl 13.)

Answer

This means the person in the middle/chairperson is responsible for the smooth flow of information. If he/she does not have good leadership qualities and is overloaded with information, he/she can block the flow of information. The central figure thus has to be endowed with good leadership qualities.

This pattern of communication is used in most meetings where all members address their comments through the chairperson.

QUESTION 5 / VRAAG 5

“The principle of taking, and making, notes springs from the fact that you should know what is important and what is not” (*SCL1014 Study Guide*, p 15)

“Die beginsel om aantekeninge te neem en te maak spruit uit die veronderstelling dat jy kan onderskei wat belangrike inligting is en wat nie.” (*SCL1014 Studiegids*, bl 14)

5 1 Advise your fellow students on the various aspects to be taken into account during the note-making process (4)

5 1 Adviseer jou mede-studente oor die verskeie aspekte wat in ag geneem moet word gedurende die aantekeninge-maak proses (4)

Answer

- Good notes develop from effective reading and listening strategies.
- Note making is an active process, and it promotes learning.
- Note making helps you sustain your concentration when you study.
- As far as possible, write notes in your own words, and in phrase-like format.
- Try to leave enough space in the margins, between the words, sentences and paragraphs. This makes your notes neat, easy to read and uncluttered. It will also be possible to fill in more information later on when you revise them.

QUESTION 6 / VRAAG 6

“Action words normally tell you what to do and how such questions should be answered” (*SCL1401 Study Guide*, p 6)

“Werkwoorde vertel u normaalweg wat om te doen en hoe sodanige vrae beantwoord moet word” (*SCL1401 Studiegids*, bl 6.)

6 1 State what the following words require you to do

6 1 Verduidelik wat die volgende woorde van jou vereis om te doen:

- | | |
|----------------------|------------|
| (i) Criticise | (2) |
| (i) Kritiseer | (2) |

Answer

Point out the good and bad characteristics and give your own opinion after taking all the facts into account.

- | | | |
|------|-----------------|------------|
| (i) | Compare | (2) |
| (ii) | Vergelyk | (2) |

Answer

Identify the similarities or differences between facts or examine the differences between ideas, facts, viewpoints, etc.

SECTION 2 AFDELING 2

Answer ALL the questions Your answers in this section must be written DIRECTLY on the examination paper in the space provided

Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.

All questions in this section are based on the following passage, which you must thoroughly read before answering

Alle vrae in die afdeling is gebaseer op die paragraaf wat volg. Lees dit aandagtig deur voor u poog om dit te beantwoord:

Ngidi, a resident of Lenyenye township, is a self-employed man whose business is to repair electrical components for motor-vehicles Other residents in the area call him an “auto-electrician” However, he predominantly repairs components such as starters and generators At times he repairs other electrical appliances such as lawn mowers On busy days he asks his young neighbours, Kenny, Dukes and Sporo to help him He likes calling them “my boys” On average, he makes R746,00 per day from his business One of his regular clients is Matome Motapola, who runs the Motapola Beer Hall and also sells potatoes to street vendors in the villages of Tickeyline, Shilubane, Mafarani, Lephepane, Motšetene, Petanenge, Khujwana, Sasekane, Dan and Mokgoloboto, and the townships of Lenyenye, Nkowankowa and Kgapane

Last week he purchased a Nissan Navara for R204 000,00 (VAT incl) Lenyenye is 30 km from Tzaneen Today, on his way to Tzaneen, he collides with Matome Motapola, the owner-driver of a Hilux Bakkie, at an intersection at Bindzulani near Nkowankowa township In the process all the potatoes that Matome Motapola was carrying in the Bakkie fell on to the road It is reported that some villagers from the nearby settlements of Mokgoloboto and Dan came with their wheel barrows and plastic bags and helped themselves to Motapola’s potatoes It is later learned that he had just purchased the potatoes from Harmony Fresh Produce at the Bindzulani Shopping Complex for R3 600,00 when the accident occurred The complex also houses the popular drinking spot known as “Sigojini Tavern” Ngidi is 43% negligent, whereas Matome Motapola’s negligence is 36% It is reported that Ngidi was travelling at a speed of 110 km/h, whereas Motapola’s speed was 70 km/h The damage to the bakkie is estimated at R46 000 It is uneconomical to repair the Navara, but its salvage value is R33 000 The pre-accident value of the Navara was R289 000

Motapola does not suffer any serious bodily injuries, but is taken to the Letaba Hospital and is treated for what the nurses tell him is “a shock” Ngidi, on the other hand, suffers serious injuries to both his legs and the doctors tell him that he has to use a wheel chair for about two weeks They also tell him not to do his work for two weeks He has to pay the hospital R120,00 for each of the 14 days he is bound to use the wheelchair

QUESTION 1 / VRAAG 1

- 1.1 If Ngidi were to travel at 12% less speed, what speed would he be travelling at? (1)
- 1.1 **As Ngidi teen 'n 12% vermindere spoed gery het, teen watter spoed het hy gery?** (1)

Answer

$$= 110 - 12/100 * 110 = 96.8\text{km/hr}$$

- 1.2 If the road between Lenyenye and Tzaneen were to be developed into a freeway, the distance between the two will be reduced by 15%. What will the new distance be? (1)
- 1.2 **As die pad tussen Lenyenye en Tanzeen ontwikkel word in 'n deurpad sal die afstand tussen die twee met 15% verminder word. Wat sal die nuwe afstand wees?** (1)
-

Answer

$$= 30\text{km} - 15/100 * 30 \text{ km} = 25.5\text{km}$$

- 1 3 Motapola now decides to stop selling potatoes to street vendors in Kgapane and Mafarani. How many settlements will he now travel to for the purpose of selling his potatoes? (1)
- 1.3 **Motapola besluit nou om op te hou om aartappels aan straatverkopers in Kgapane en Mafarani te verkoop. Na hoeveel woongebiede sal hy nou moet reis om aartappels te verkoop? (1)**

Answer

$$13 \text{ (total number of settlements)} - 2 = 11$$

- 1 4 What was the price of the Navara before VAT was added? (1)
- 1.4 **Wat was die prys van die Navara voordat BTW bygevoeg is? (1)**
-

Answer

$$204\,000 + 14/100 * 204\,000$$

$$=323\,560$$

- 1 5 How much is Ngidi expected to pay the Letaba Hospital when he returns the wheelchair? (1)
- 1 5 **Hoeveel sal Ngida aan die Letaba Hospitaal moet betaal wanneer hy die rolstoel terugneem? (1)**

Answer

$$120.00 * 14$$

$$=R1680$$

-
- 1 6 On average, how much would Ngidi have lost from his business when he resumes his work? (1)
- 1.6 **Hoeveel sou Ngidi gemiddeld van sy besigheid verloor het teen die tyd wat hy teruggaan werk toe?** (1)

Answer

$$\begin{aligned} &R746 \text{ (The money he makes a day)} * 14 \text{ (the number of days he is unable to work)} \\ &= R 10\,444 \end{aligned}$$

- 1 7 With reference to Ngidi's situation, explain the concept "on average"? (1)
- 1 7 **Met verwysing na Ngidi se situasie, verduidelik die konsep "per gemiddeld"?** (1)

Answer

The amount based on his ordinary everyday earnings

QUESTION 2 / VRAAG 2

- 2 1 With reference to only the damage to their (Ngidi and Motapola's) motor vehicles, calculate who must pay whom, and what would be the amount in damages (2)

Use method in question 17 ABOVE.

QUESTION 3 / VRAAG 3

Motapola has approached Mailula Mahowa of Modjadji House, an attorney at law practising in Tzaneen, Modjadjiskloof and the Letaba District to further assist him in the matter. He agrees to the following arrangement with the attorney, and the agreed remuneration is as follows

Every letter written R53
Every letter received R26
Drafting of a summons R 730
Drafting of an affidavit R66 per page or any part thereof
Consultation R600 per 30 minutes or any part thereof
Telephonic consultation R225 per 15 minutes or any part thereof,
Stamps R3,75 VAT excl

This month the attorney rendered the following services

Received 9 letters

Wrote and posted 5 letters

Drafted three summonses

Drafted two affidavits 1 consisting of 4 ½ pages, and 1 consisting of 12 ½ pages

Consulted twice telephonically, first for 16 minutes and later 33 minutes

Consultation twice, first for 31 minutes and later for 1 hour and 36 minutes

Instructed an advocate to draft a document. The advocate charged R3335,72 VAT excl

Client went to Letaba Hospital to consult a doctor and source a medico-legal report in respect of the accident. The doctor charged R 3690 VAT excl

Draft Mailula Mahowa's comprehensive statement of account to Matome Motapola (10)

use the methodology in the previous paper.

SECTION 3
AFDELING 3

Answer ALL the questions. Your answers to the questions in this section must be written DIRECTLY on the examination paper in the space provided.

Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.

QUESTION 1/ VRAAG 1

In order to answer the questions in this section, you will again have to read the passage that appears at the beginning of **section 2** of this examination paper.

Om die vrae in hierdie afdeling te kan beantwoord, moet u weer die paragraaf wat aan die begin van afdeling 2 van hierdie vraestel voorkom lees.

Ngidi has come to see you with regard to the accident he was involved in at the intersection near Bindzulani. He asks you to act on his behalf in the matter.

Ngidi kom sien u met betrekking tot die ongeluk waarin hy betrokke was by die kruising naby Bindzulani. Hy vra u om namens hom op te tree in die saak.

1.1 Frame two questions that you will ask him so as to “put him at ease” during your first consultation with him. (1)

1.1 Formuleer twee vrae wat u hom sal vra om hom “op sy gemak te stel” tydens u eerste konsultasie met hom. (1)

Answer

How has been your day so far?

Did you watch the match? Which team were you supporting?

-
- 1 2 What points would you mention to him to ensure that he has confidence in you, and reassure him that you act in his interest? (1)
- 1 2 **Watter punte sal u aan hom uitwys om seker te maak dat hy u vertrou; en om hom die versekering te gee dat u in sy belang optree?** (1)

Answer

From the facts, it looks like we have a case. I will do everything humanely possible to ensure that you succeed in your claim. You are in safe hands.

- 1 3 During the consultation, it emerges that Maningo Tshuketane, a resident of Nkowankowa township, was at the nearby “Flame Grilled Chicken” restaurant and witnessed the whole accident as it unfolded
Draft two possible questions that you may ask him so as to let him give the court an overview of what happened (2)

Answer

How far were you from the scene of the accident?

Can you please explain to me what you saw?

- 1 4 The matter has now been brought before the Ritavi magistrate court
Draft what you think will be your opening address (4)
- 1.4 **Die saak is nou voor die Ritavi landdroshof gebring. Stel die openingsrede op soos wat u dink dit sal wees.** (4)

Answer

As it pleases the court. Your honor, my name is counsel.....appearing on behalf of the plaintiff Mr Ngigi in the matter between him and the Defendant Mr Matopola concerning the motor vehicle collision which took place on..... At.....I will make my submissions to this honorable court on the following issues.....I will prove to this court that the collision was due to MrMatopola's sole negligence.

15 Matome Motapola has appointed Mr Mailula Mahowa, an attorney at Modjadji House, to represent him in the matter. In the examination-in-chief of his client the attorney asks him (Motapola) the following questions

- Were you coming from Harmony Fresh Produce when that speedster collided with you?
- Do you think that the speedster was rushing to the Sigojini Tavern when he caused the accident?
- Were you driving fast when you approached the intersection?
- Did you buy the load of potatoes for R3600,00?

Explain fully what you would do in this situation, as a response or reaction to the attorney's questioning (2)

Answer

I would raise an objection to the manner in which he is questioning his client. The questions are leading questions and thus, he is putting words into the mouth of his client.

16 List some of the important points that you will include in your heads of argument. Make sure you make specific reference to the scenario given in the passage (2)

Answer

The loss of potatoes he was carrying to do business

The bodily injuries he suffered

The hospital expenses

1.7 Now, draft a concise paragraph that would constitute your “prayers” (2)

1.7 Stel 'n bondige paragraaf op wat u smeekbede bevat. (2)

See prayers above in the previous paper.

QUESTION 2 / VRAAG 2

- 2.1 Use examples to explain what the concept “non-verbal communication” is, and say why it is important to legal practice (2)
- 2.1 Maak gebruik van voorbeelde en verduidelik wat met die konsep “nie-verbale kommunikasie” bedoel word en waarom dit belangrik vir die regsberoep is. (2)**

See answer in the previous paper above.

- 2.2 Use your own examples to explain the following (a) *argumentum ad hominem* (b) *non sequitur* (4)
- 2.2 Maak gebruik van u eie voorbeelde en verduidelik die volgende begrippe: (a) *argumentum ad hominem* (b) *non sequitur* (4)**

Answer

Attacking the arguer instead of the argument that he/she is making. This is the equivalent of –playing the man rather than the ball. It should however be noted that whatever is said about a person does not affect his/her argument.

Eg your attitude is as ugly as you are.

SECTION 4
AFDELING 4

QUESTION 1/VRAAG 1

Distinguish between
Onderskei tussen:

- (i) Primary and Secondary sources of law (1)
(i) **Primêre en Sekondêre bronne van die reg.** (1)

Answer

Primary is authoritative whereas secondary is persuasive.

QUESTION 2/VRAAG 2

You are required to do a legal research assignment as part of your LLB studies

Explain how you will find relevant case law to complete this assignment (2)

Daar word van u verwag om 'n regsnavorsingsopdrag te doen met betrekking tot u LLB studies.

Verduidelik hoe u relevante hofsake sal opspoor om u opdrag te voltooi.
(2)

Answer

Look up in law reports eg

CLR Commercial Law Reports

SALLR South African Labour Law Reports

BCLR Butterworth's Constitutional Law Reports

Surf the internet

QUESTION 3/VRAAG 3

Compare a table of contents and a subject index
Vergelyk 'n inhoudsopgawe en 'n saakregister.

(1)
(1)

Answer

The former is found at the beginning of a book

The latter is found at the end

QUESTION 4/VRAAG 4

- 4 1 Mention four structural components of a case citation (2)
4 1 **Noem vier strukturele komponente van 'n saakverwysing.** (2)

Refer to previous paper

- 4 2 What are the two steps you will take when reading an article? (2)
4.2 **Wat is die twee stappe wat u sal neem wanneer u 'n artikel lees?** (2)

Answer

These are e things you look at;

When was the article published? (In other words how old is the article, is it relevant?)

Was it published before or after the new Constitution?

Who is the author/writer of the article? Is he/she an authority on the topic? Has he/she written other articles in the same field as well?

QUESTION 5 / VRAAG 5

- Mention at least two indexes that can be consulted in order to find case law (2)
Noem ten minste twee indekse wat u kan raadpleeg om hofsake te vind. (2)

Answer

CLR Commercial Law Reports

SALLR South African Labour Law Reports

BCLR Butterworth's Constitutional Law Reports

QUESTION 1 / VRAAG 1

- 1 1 What is the difference between a flynote and a headnote? (2)
1 1 **Wat is die verskil tussen 'n kern-frase en 'n kopstuk?** (2)

See question 6 above.

QUESTION 2 / VRAAG 2

- 2 1 "*African National Congress and others v United Democratic Movement and Others* 2003 (1) SA 533 (CC)"
2.1 "***African National Congress and other v United Democratic Movement and Others* 2003 (1) SA 533 (KH)**"
2 1 1 In which law reports is this case reported? (1)
2.1.1 **In watter hofverslae is hierdie hofsaak gerapporteer?** (1)

Answer

South African Law Reports

- 2 1 2 In which court was the judgment given? (1)
2.1 2 **In watter hof is hierdie uitspraak gegee?** (1)

Answer

Constitutional Court

2 1 3 What does “(1)” stand for in the case citation? (1)

Answer

Volume

2 1 4 What does “533” stand for? (1)

Answer

Page 533

QUESTION 3 / VRAAG 3

3 1 What is the importance of an Act of Parliament? (1)

Answer

It is an authoritative source of South African law

3 2 What is the significance of the Preamble of the Act? Does it serve any purpose? (1)

Answer

A preamble is an introductory statement in a document that explains the document’s purpose and its underlying philosophy. The preamble of an Act thus outlines the underlying philosophy of an Act.

3 3 “*English text signed by the President*”
What is the relevance of this expression to the Act? (1)

Answer

The significance is that whenever there is a dispute concerning any part of the Act, or any conflict with the translated version the English version will be the official version.

- 3 4 Why should we have the definition clause in an Act? (1)
3 4 **Waarom moet daar 'n definisie klousule in Wetgewing wees?** (1)

Answer

It is an interpretative tool used to give the meanings of words as they are used in the Act.

- 3 5 What does an Act consist of? (2)
3.5 **Waaruit bestaan 'n Wet?** (2)

Answer

Short title

Long title

Preamble

Definitions

Sections, subsections, paragraphs and sub paragraphs.

- 3 6 Your friend, who is a paralegal student at Learn by Doing College, struggles with certain aspects of how to read an Act. He does not understand how to determine whether an Act is in force. Please explain to him (2)

Answer

An act of parliament can stipulate when it will commence at the end of it, or it may state that it will commence at a date to be determined by the president by publication in the government gazette.

QUESTION 4 / VRAAG 4

What is the difference between Statute law and Common law? (2)
Wat is die verskil tussen Statutêre Reg en Gemeenereg? (2)

Answer

The former constitutes Acts of parliament promulgated by the legislature while the latter is Roman Dutch Law as influenced by English Law and contained in the writings of Roman Dutch Jurists.

QUESTION 5 / VRAAG 5

- 5.1 If the *ratio decidendi* of the Supreme Court of Appeal judgement creates a precedent, which court(s) will have to follow this precedent? (1)
5.1 Indien die *ratio decidendi* van die Hoogste Hof van Appèl se uitspraak 'n president skep, watter howe sal hierdie president moet volg? (1)

Answer

High court and Magistrates Courts.

-
- 5.2 What do you understand by the precedent system? (2)
5.2 Wat verstaan u onder die presidentestelsel? (2)

Answer

Precedent system means decision of higher courts are binding on lower courts and that a court is bound by its previous decisions.

Mei/Junie 2012

5.3 Explain the following kinds of judgements (3)

5.3 Verduidelik die volgende tipes uitsprake: (3)

(i) Majority

(ii) Meerderheid

Answer

A majority judgment means that the majority of judges who have heard a particular case give the same judgment based on the same reasons. One judge gives the judgment and the others concur (agree) with it.

(ii) Minority

(ii) Minderheid

Answer

In a minority judgment the judge disagrees with the majority and reaches a different conclusion. In such a case a judge differs from the majority of judges as far as the judgment and the reasons for the judgment are concerned.

(iii) Separate

(iii) Aparte

Answer

Sometimes a judge does not disagree with the conclusion of the other judges, but has different reasons for his/her judgment. Any reasons added by the judge for his/her judgment, do not establish a precedent.

QUESTION 6 / VRAAG 6

There are certain presumptions that have to be taken into account when interpreting an Act. Mention three of those presumptions (3)

Daar is sekere vermoedens wat in ag geneem moet word wanneer Wetgewing geïnterpreteer word. Noem drie van die vermoedens (3)

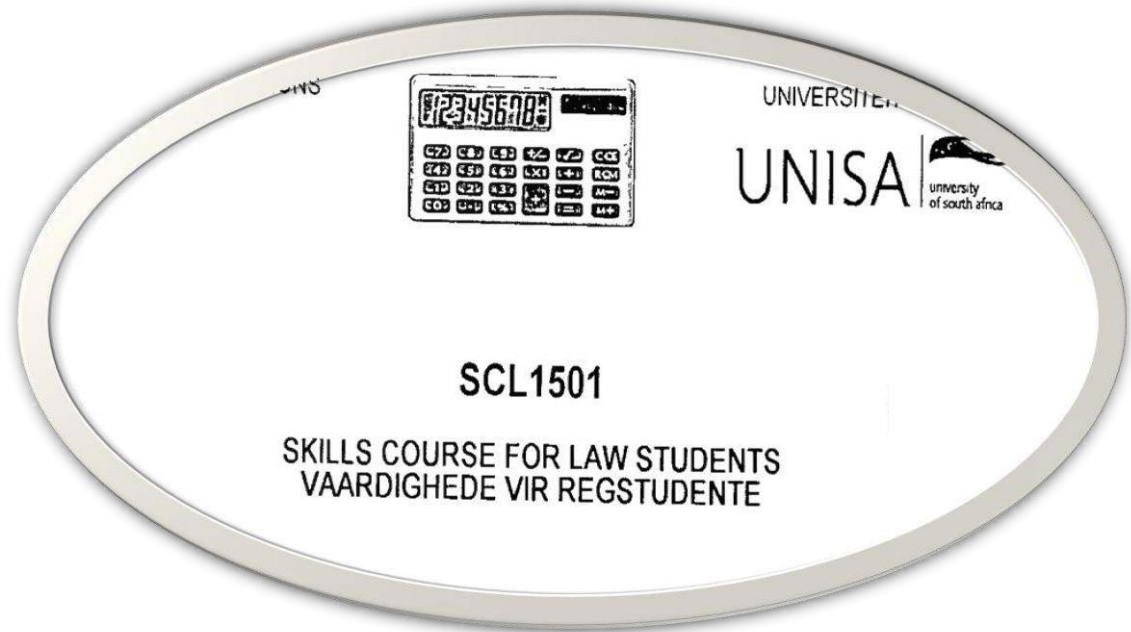
Answer

Legislation is presumed not to contain meaningless sections – every word and phrase therefore is presumed to have meaning.

Legislation is presumed not to change existing laws unless it states so explicitly.

It is presumed that legislation does not intend unreasonable or unfair consequences.

Legislation is presumed to only apply to future events and not retrospectively



QUESTION 1 / VRAAG 1

- 1.1 Differentiate between the following (i) laws and (ii) rules (2)
- 1.1 **Onderskei tussen die volgende: (i) reg en (ii) ander reëls. (2)**

Answer

Law in the strict sense is the only body of rules governing human conduct that is recognized by the state and if necessary, enforced. Although some rules are law, not all of them are laws and are thus not enforced by the state.

1.2 "The state, through the courts, will charge and try that person (prosecute) on behalf of the wider society or community. If that individual is found to have broken the law he will be punished according to the law."

1.2 "Die staat sal, deur middel van die hof, die persoon aankla en verhoor (vervolg) namens die breër gemeenskap of samelewing. Indien bevind word dat die individu die reg oortree het, sal hy volgens die regsreëls gestraf word."

(i) What do you understand to be the aims(s) of punishment? (1)

(i) **Wat verstaan u as die doelstellings van straf?** (1)

Answer

Restore the legal balances

Rehabilitate the offender

Prevent the offender from committing a similar crime and the society as well (individual and general deterrence)

Protect the society from the offender.

(ii) Mention at least four (4) forms of punishment (2)

(ii) **Noem ten minste vier (4) vorme van straf.** (2)

Answer

Fine

Imprisonment

Community service

QUESTION 2/ VRAAG 2

"The concepts 'studying' and 'learning' are often easily confused. Although their meanings are different, they are at the same time closely related."

"Die begrippe 'studeer' en 'leer' word maklik verwar. Alhoewel hulle verskil, is hulle tog verwante begrippe."

- 2.1 Explain the difference between *studying* and *learning* (2)
2.1 **Verduidelik die verskil tussen *studeer* en *leer*.** (2)

Answer

Studying is when you physically engage in the process of organizing the study materials (e.g. books, cases and Acts) and using them in order to acquire knowledge for a certain purpose (e.g. writing assignment and passing exams).

Whereas, our study process or methods lead to learning.

- 2.2 What are the skills required for *studying*? (2)
2.2 **Watter vaardighede word daar vir *studeer* vereis?** (2)

Answer

Studying requires that you use various skills that include;

Finding and reading textbooks and other texts,

Organizing your own notes,

writing assignments and essays in an academically acceptable manner, preparing for tests and exams and demonstrating your competence in that regard etc.

QUESTION 3 / VRAAG 3

"For a long time learning has been confused with the mere absorption of information or memorisation "

"Leer word lank reeds verwar met die blote memorisering van inligting."

- 3 1 Explain the notion of "banking education" in relation to the above excerpt (2)
- 3.1 **Verduidelik die idee van "banking education" met verwysing na bostaande uittreksel.** (2)

Answer

Facts are deposited into the pupil's brain until they are withdrawn at the right moment, for a particular purpose. Thus, there is no chance for the pupil to challenge, criticize, discuss or interrogate the -deposited information.

- 3 2 Discuss the role of "dialogue" as a core element of learning (2)
- 3.2 **Bespreek die rol van "dialogoog" as 'n kernelement van leer.** (2)
-

Answer

Dialogue enables a learner to interact with other students and lecturers. This enables them to share information thereby enhancing the learning process.

QUESTION 4 / VRAAG 4

"Prioritising is one thing, but getting on to doing the actual work or business is quite another "

"Om te prioritiseer is een ding, maar om aan die werk te spring is heeltetal 'n ander."

4 1 Explain the concept prioritising (1)

4 1 **Bespreek die begrip prioritisering.** (1)

See question 2.5 May June

- 4 2 What are some of the factors to be considered when prioritising? (3)
4.2 **Wat is sommige van die faktore wat oorweeg moet word wanneer u prioritiseer?** (3)

- **Answer**
- The urgency of the activity
- The relative importance of the particular activity in relation to other activities
- The anticipated degree of difficulty
- The likely time needed to complete the activity
- The scope and volume of the work involved.

QUESTION 5 / VRAAG 5

"Come learn with me and we shall be exemplars of proficiency But if you yearn to learn alone, then you must learn it on your own."

- 5 1 Discuss the essence of the above excerpt, especially with reference to what you have studied in this module, SCL1501 (3)
5.1 **Bespreek die kern van bostaande uittreksel met verwysing na dit wat u in hierdie module, SCL1501, geleer het.** (3)

Answer

No man is an island. It is important to work in groups and a lot is learnt in the process. Conversation/argumentation shows gaps in knowledge and abilities and can also force one to work out conclusions, implications or applications which you were not aware of previously.

- 5.2 Select a model of how a group can function and discuss how that model can help students become "exemplars of proficiency" (5)
- 5.2 Kies 'n model van hoe 'n groep kan funksioneer en bespreek hoe daardie model studente kan help om "exemplars of proficiency" te word**

Answer

The central figure model;

The person in the middle is responsible for the flow of communication.

- This model is suitable for simple tasks.
- A disadvantage is that the central figure can be overloaded with information or he/she can block the flow of information.

- This pattern of communication is used in most meetings where all members address their comments through the chairperson. The success of this method therefore depends a lot on the leadership abilities of the person in charge

SECTION 2
AFDELING 2

Answer ALL the questions Your answers in this section must be written DIRECTLY on the examination paper in the space provided
Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.

QUESTION 1 / VRAAG 1

"It is common that even at school level most learners are fed the 'misinformation' that mathematics is not required in legal studies "

"Oor die algemeen word die meeste kinders op skool die vals ingligting gegee dat wiskunde nie 'n vereiste vir regstudie is nie"

- 1 1 Comment on why the statement that "mathematics is not required in legal studies" is regarded as "misinformation" (2)
- 1.1 Lewer kommentaar op die bewering dat die stelling "wiskunde is nie 'n vereiste vir regstudie nie" vals inligting is. (2)**

Answer

Legal studies or legal practice require numeracy skills. A lawyer will need pay employees their salaries, work out consultation fees, divide estates, determine damages especially concerning motor vehicle accidents, work out the interest on defamation claims, and so on.

- 1 2 Explain why bad numeric skills will disadvantage a lawyer in practice (2)
- 1.2 Verduidelik waarom swak rekenvaardighede in die praktyk 'n regspraktisyn sal benadeel (2)**

Answer

It will indeed be a sad situation if your clients were to discover that you cannot do simple, and basic, numeric aspects. They will not be confident that you can be relied on if you can't take care of their affairs (e.g. claims, accounts, estates)

QUESTION 2 / VRAAG 2

Bankuna, Mokhapa and Phusela are partners in a Tzaneen-based company, Matlou Business Centre. The profit of the company for the year 2014 is R450 000. The company has employed Lenyenyene, Lephepane, Kgapane and Nkowankowa to perform various duties.

Bankuna, Mokhapa and Seboye is vennote in 'n maatskappy wat in Tzaneen gebaseer is. Die maatskappy se wins vir 2014 is R450 000. Die maatskappy het Lenyenyene, Lephepane, Kgapane en Nkowankowa in diens geneem om verskeie take te verrig.

- 2.1 Calculate how much each of the partners will get if they share equally in the profit of the business (1)
- 2.1 Bereken hoeveel elke vennoot sal kry indien hulle gelyk in die wins van die besigheid deel. (1)**
-

Answer

$$=R450\,000/3$$

$$=150\,000$$

- 2.2 If the employees respectively earn R12 000, R13 000, R11 000 and R18 000 per month, calculate their average income per month (2)
- 2.2 Indien die werknemers onderskeidelik R12 000, R13 000, R11 000 en R18 000 per maand verdien, bereken hul gemiddelde inkomste per maand. (2)**
-

Answer

$$12\,000 + 13\,000 + 11\,000 / 2 = 12\,000$$

QUESTION 3/ VRAAG 3

Junior Maake, a local policeman in the Motlhatlareng/Tickeyline village near Lenyenye, is the owner-driver of a Nissan Hardbody bakkie. He purchased the bakkie last month for R240 000 VAT incl. He normally uses the bakkie to carry wood from the Letsitele, Coach House and Modjadji farms in the Letaba-Tzaneen area which he sells to villagers in the settlements of Lephepane, Mokgoloboto, Nabane, Rita, Makhubedung, Gavaza, Bonn and Tickeyline. Today, on his way from the Coach House farm, he collides with Fix Mogale, the owner-driver of a Mercedes Benz C180 at an intersection at the Bindzulani Shopping Centre near Nkowankowa between Tzaneen and Lenyenye. Junior Maake is found to have been 36% negligent while Fix Mogale is 53% negligent. However, it is uneconomical to repair the Mercedes Benz, but its salvage value is R78 000. It is said that its pre-accident value was R320 000. The damage to the Nissan Hardbody is estimated to be a quarter of its pre-accident value.

Junior Maake is also like a policeman in the village of Tickeyline.

- 3.1 Make a detailed step-by-step calculation to determine who must pay whom and what should be the amount of damages to be paid. (5)
- 3.1 Maak 'n gedetailleerde stap-vir-stap beraming om te bepaal wie vir wie moet betaal en hoeveel die skadevergoeding is wat betaal moet word.**

Answer

JUNIOR IS 36% Negligent

Thus $36/100 * 320\ 000 - 78\ 000$

= R 37 200 (Amount to be paid to Mogale)

Mogale is 53% negligent

= $53/100 * 240\ 000$

= R 127 200 (Amount to be paid to Junior)

It doesn't make sense that Junior pays R37 200 to Mogale while Mogale pays him R127 200

So it will be set off as follows. 127 000 – 37200

= R90 000 Which Mogale will pay to Junior.

- 3.2 With reference to the Mercedes Benz, explain the concept "salvage value" Make sure that your explanation has specific details (3)
- 3.2 **Met verwysing na die Mercedes Benz, verduidelik die begrip "wrakwaarde". Maak seker dat u dit in spesifieke besonderhede verduidelik. (3)**

Answer

This refers to the scrap value of the car, or the value of the asset after it has come to the end of its useful life. The Benz's useful life ended after the accident. Therefore the value of the wreck is R78 000.

**SECTION 3
AFDELING 3**

Answer ALL the questions Your answers to the questions in this section must be written DIRECTLY on the examination paper in the space provided
Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.

QUESTION 1/ VRAAG 1

Read the following text in order to answer the questions in this section
Lees die onderstaande gedeelte ten einde die antwoorde op vrae in hierdie afdeling te beantwoord

Salojee and Goolam are the owners of Mzansi Pub at Lenyenye township in Tzaneen They sell alcoholic beverages and roasted meat (braai) from 9h00 to 22h00 on weekdays, and from 9h00 to 2h00 on weekends Hundreds of the township residents, including those from the surrounding villages of Moime, Rita, Sasekani, Khujwana, Lephepane, Mokomotji and Burgersdorp spend most of their time at the pub It is also reported that scores of school-going youth from local schools such as Phusela, Seboye and Sekaba are frequently seen at awkward hours drinking there Many parents are said to have complained to the local government authorities that the existence of the Mzansi Pub in the township has drastically affected the performance of the learners at the local schools However, Salojee and Goolam have consistently rejected these claims Recently, a fight broke out between two young men which resulted in the death of one of the patrons and a serious injury to a 16-year-old girl, Mmatapa, who was described as one of the regular faces at the pub It is alleged that the two men had been fighting over the injured girl The girl's father, Monadha Letsatsi, confronted the pub owners about the incident, accusing them of encouraging "under-age" youth to drink liquor The argument resulted in a physical scuffle involving Monadha, Salojee and Goolam This led to Goolam suffering a severe cut across his face and bruises on his hands It is said that had it not been for the intervention of one of the vendors near the pub, known to his colleagues as Makopini, the situation would have been worse

Monadha Letsatsi has come to see you (as a legal practitioner) regarding the confrontation he had with the pub owners. He is concerned that the matter will ultimately be brought to a court of law, and he thus wants you to act on his behalf.

Monadha Letsatsi het u (as regspraktisyn) kom raadpleeg oor die konfrontasie wat hy met die eienaars van die kroeg gehad het. Hy is bekommerd dat die saak by die hof sal eindig en wil u dienste as regsverteenwoordiger hê.

- 1 1 State at least six aspects that you will take note of when you meet Monadha for your first consultation with him (3)
- 1 1 **Noem minstens ses aspekte wat u in aanmerking sal neem wanneer u en Monadha vir die eerste konsulteer.** (3)

- **Answer**

- I will start off by showing interest in the client or witness.
- I will not rush into the main issue that has necessitated the interview. I should allow them to relax.
- Enquire about his/her name, and how he/she would prefer to be called.
- Talk about general things, eg what could be happening in the wider social sphere, like sport etc
- If possible I can offer him/her tea, coffee or a soft drink.
- Reassure the witness about the confidentiality of the discussion or interview.

- 1 2 Explain briefly how you will go about obtaining essential information from him to enable you to work on the case (4)
- 1 2 **Verduidelik kortliks hoe u te werk sal gaan om die noodsaaklike inligting van hom te bekom om sy saak te hanteer.** (4)

Answer

A safe approach is to ask the client to give a short outline of what happened. I should do this to give myself the opportunity to get the general sense of the “__story”. I will take notes as he/she speaks so that I have the necessary information. I also may stop the

witness if he/she speaks too fast or if I want something clarified. After this initial run, I may politely ask him/her to start the __story“ from the beginning so that I can get an outline of the events again. At this stage I can check for inconsistencies.

- 1.3 You will obviously listen to Monadha, while "taking cognisance of his feelings" State 8 points that should guide you while listening to him (4)
- 1.3 U sal natuurlik Monadha "se gevoelens in ag neem" terwyl u na hom luister. Noem 8 punte wat u behoort te lei terwyl u hom aanhoor. (4)**

- **Answer**

- Be empathetic.
- A good listener keeps eye-contact and responds to the speaker accordingly.
- A good listener also listens with his/her eyes
- A good listener also participates in the interaction, silently, by active body language
- A good listener seeks clarification where there is any misunderstanding, or signs that there is coherence in what is being presented
- A good listener cares about the speaker and other role players in the listening context, and value of the messages (not necessarily that he/she agrees).
- A good listener pays full and genuine attention to what is said. He/she does not fake attention.
- A good listener must be open-minded. Allow your mind to be open to new ideas and criticisms and thus be comfortable with ideas you may not agree with

1.4 The matter is finally brought to the Naphuno Magistrate court in Lenyenyé because Goolam has laid a charge with the police against Monadha. Now, draft the following

1.4 Die saak word uiteindelik voor die Naphuno Landdroshof in Lenyenyé gebring omdat Goolam 'n klag teen Monadha by die polisie gelê het. Stel nou die volgende op:

(a) Your comprehensive opening address (3)

(a) U volledige openingsrede (3)

Answer

See answers in above questions.

(b) Two questions that you may ask your client in court to enable him to give the court an overview of the matter (2)

(b) Twee vrae wat u aan u klient kan stel om hom in staat te stel om die hof 'n oorsig oor die gebeure te gee (2)

Answer

Follow the answers above

(c) Your prayers (2)

(b) U bedes

Answer

Here you are asking the court to grant you certain relief even an order of costs. See also answers above in the first paper.

QUESTION 2 / VRAAG 2

- 2.1 How does "irrelevance" tend to find its way into argumentation? Discuss this with reference to the following aspects of Logic (a) *argumentum ad hominem* and (b) argue from authority (4)

Answer

Argumentum ad hominem;

(Personal attack) — attacking the arguer instead of the argument that he/she is making. This is the equivalent of –playing the man rather than the ball. It should however be noted that whatever is said about a person does not affect his/her argument.

Argue from authority;

- In this instance, the arguer introduces a name in an attempt to strengthen the argument. There is a correct way of using authority, ie the name stands for an argument or an accepted view. However, to rely on a name to bolster a weak argument cuts no ice.

- 2.2 With examples or illustrations, differentiate between premises and conclusions in arguments (3)
- 2.2 Met verwysing na voorbeelde of illustrasies onderskei tussen premisse en gevolgtrekkings (konklusies) in argumente (3)

Answer

premise refers to a previous statement, or proposition from which another is inferred or follows as a conclusion. The conclusion thus follows the premise. If the premise is true, then the conclusion must be true.

E.g. Premise 1. My dog has a tail

Premise 2. All horses have tails

Conclusion. My dog is a horse [False!]

SECTION 4 AFDELING 4

Answer ALL the questions Your answers to the questions in this section must be written DIRECTLY on the examination paper in the space provided
Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.

QUESTION 1 / VRAAG 1

1.1 What is the role played by an ombudsman in the South African legal system? (2)

1.1 Wat is die rol van 'n ombudsman in die Suid-Afrikaanse regstelsel? (2)

Answer

investigate complaints and try to resolve them

Identify systematic issues leading to poor service or breach of people's rights.

1.2 In the context of participation in the legal process, why should a client, an accused person or a complainant, a plaintiff or a defendant be considered as a fundamental actor? (2)

1.2 Waarom behoort 'n klient, beskuldigde of klaer, eiser of verweerder, in die regsproses as fundamentele rolspeeler beskou word?

Answer

These are the major role players upon whom a matter civil or criminal matter is dependent.

Without these role players there is no case.

QUESTION 2 / VRAAG 2

2.1 Give an elaborate description of the difference between the magistrate court and the high court? (2)

2.1 Gee 'n uitvoerige beskrywing van die verskil tussen die landdroshof en die hoer hof. (2)

Answer

The former is referred to as an inferior court whilst the later is called a superior court

The former is established in terms of a statute, (the magistrate court act) whilst the latter is not

The latter has a greater jurisdiction than the former

Presiding officer is called a magistrate in the former whilst in the latter it's a judge.

2.2 What types of work are attorneys usually involved in? (2)

2.2 Wat behels die werk van prokureurs gewoonlik? (2)

Answer

The work of an attorney includes general matters and resolving legal issues such as drafting contracts, wills, affidavits, and so forth. An attorney mainly practices in the *lower courts* and deals directly with the clients (or members of the public).

2.3 What are the roles of judges and magistrates in the legal system? (2)

2.3 Wat is die rol van regters en landdroste in die regstelsel? (2)

Answer

The term –presiding officers‖ is generally used to refer to judges and magistrates who take charge of the court proceedings or proceedings in any tribunal and make findings and orders

after hearing evidence (and arguments) on the matters at hand. Preside over matters or cases brought to the higher courts. Magistrates serve in the lower courts, namely district and regional magistrates' courts.

QUESTION 3 / VRAAG 3

- 3 1 Describe the qualifications and training required for attorneys and advocates (4)
- 3.1 Beskryf die kwalifikasies en opleiding wat daar vir prokureurs en advokate vereis word (4)**

Answer

For one to be an attorney, one has to complete an LLB degree offered at a recognized university, pass the admission examinations set by the Law Society of South Africa and further complete the required time serving under an experienced attorney in terms of a contract of articles or clerkship. The admission to practice as an attorney is regulated in terms of legislation

Any person with an LLB degree can be admitted as an advocate. However, in order for one to become a member of the Bar, one has to serve what is termed *pupilage*. Pupilage is a period of unpaid training and mentorship under an experienced advocate(s). Two experienced advocates normally mentor a trainee advocate. After the completion of the pupilage, the trainee advocate must pass the Bar Council examinations

- 3.2 Mention at least two (2) members of the support staff in a law firm (1)
3.2 Noem ten minste twee (2) van die ondersteuningspersoneel in 'n regsfirma. (1)

Answer

Paralegal

Legal secretary

SECTION 5
AFDELING 5

Answer ALL the questions. Your answers to the questions in this section must be written DIRECTLY on the examination paper in the space provided.
Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.

QUESTION 1/ VRAAG 1

- 1.1 When does a piece of legislation come into force? (2)
1.1 Wanneer tree 'n wet in werking? (2)

Answer

On a date stated therein as the commencement date

Or

At a date to be determined by the president and through publication in a government gazette.

- 1.2 With reference to case law, explain what an appeal is? (2)
1.2 Met verwysing na regspraak, verduidelik wat 'n appèl is. (2)

Answer

Appeal is when one takes a matter to a higher court with appellate jurisdiction because he/she is not satisfied with the decision of the trial court. Eg in *Molefe v Mahaeng* 1999 (1) SA 562 (SCA). Mr Molefe appealed to the Supreme Court of appeal and the result was that the appeal failed and was dismissed with costs. Both criminal and civil cases can be appealed against.

- 1.3 How are civil cases started, especially looking at an action proceeding? (2)
- 1.3 Hoe word 'n siviele saak begin, veral as mens na aksieprosedure kyk? (2)**

Answer

Summonses are issued by the plaintiff out of the relevant court. They are served by the sheriff on the defendant. The parties exchange pleadings until closure of pleadings and discovery of documents (where relevant). The matter will then be set down for trial.

- 1.4 Explain the system of precedent in relation to the hierarchy of courts (4)
- 1.4 Verduidelik die presedentestelsel met verwysing na die hiërargie van die hof (4)**

Answer

Answered above

- 1.5 What do you understand by the term "litigation"? (2)
- 1.5 Wat verstaan u onder die begrip "litigasie"? (2)**

Answer

An action brought in court to enforce a particular right. Litigation involves a series of steps that may lead to a court trial and ultimately a resolution of the matter.

- 1.6 What is a "statute"? You should also state its importance? (2)
1.6 Wat is 'n "wet" en waarom is dit belangrik? (2)

Answer

Statutes are Act of Parliament. This includes National legislation, provincial legislation municipal by laws and regulations issued by the minister. Their importance is that it is authoritative source of South African law.

- 1.7 Most often an order regarding costs is made as part of the judgement
What are costs? (2)
1.7 'n Kostebevel word gewoonlik as deel van die uitspraak gegee. Wat is koste? (2)

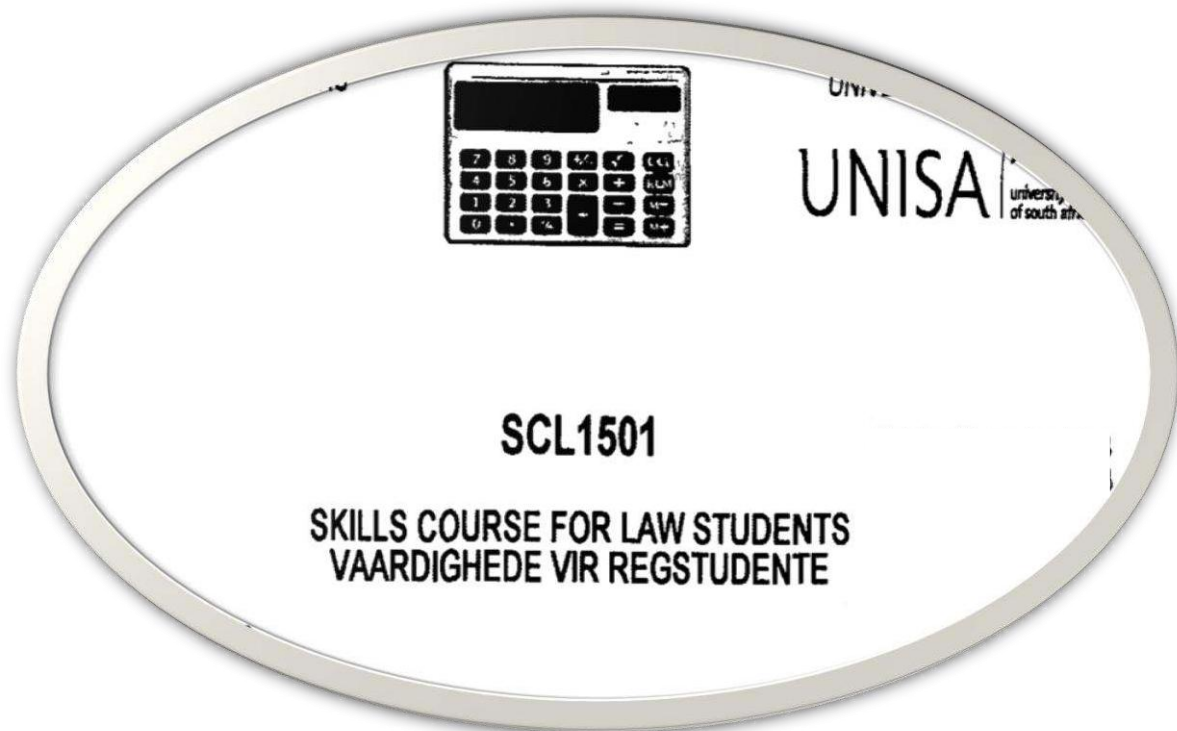
Answer

Answered in the first paper above.

- 1.8 "Apart from the rules concerning the interpretations of Acts as contained in the Interpretation Act 33 of 1957, certain presumptions must also be taken into consideration" Mention four (4) of these presumptions (4)
- 1.8 **"Benewens die reëls vir die uitleg van wette soos vervat in die Interpretasiewet 33 van 1957, moet daar ook sekere vermoedens in ag geneem word." Noem vier (4) van hierdie vermoedens. (4)**

Answer

Answered above



QUESTION 1 / VRAAG 1

- 1 1 What are the functions of the law? (3)
1.1 Wat is die funksies van die reg (3)

Answer

Law creates and maintains peace and order in the society by balancing the interests of the individual and those of the larger community or the state. Protection of the citizens (and non citizens) is controlled by the Constitution which guarantees that their human rights will be protected against arbitrary violation by the state and other individuals, groups and organizations that are more powerful in various senses.

- 1 2 What is the difference between an Act and the Law, if any? (2)
1.2 Wat, indien enige, is die verskil tussen 'n wet en die reg? (2)

answer

The difference is the same. An Act of parliament is an authoritative source of Law in South Africa hence it is law in itself. These two are therefore one except for that the term law is all encompassing other sources of law as well such as common law, case law etc.

QUESTION 2/ VRAAG 2

“As a pupil you knew nothing, your brain was empty and the teacher was expected to fill it with facts/information”

“As ‘n leerling het jy niks geweet nie, jou brein was so te se “leeg”, en die onderwyser was veronderstel om dit te vul met feite of informasie.”

- 2 1 Which view of education is illustrated by the above excerpt? Explain why you say so (6)
2.1 Watter siening van onderwys word deur die bogenoemde verteenwoordig? Verduidelik waarom jy so sê. (6)

Answer

Paulo Feire refers to this system of –learning as banking education. The metaphor of a bank comes to the fore because, as we have just said, facts are deposited into the pupil’s brain until they are withdrawn at the right moment, for a particular purpose. Thus, there is no chance for the pupil to challenge, criticize, discuss or interrogate the –deposited information. In this sense students are considered empty vessels waiting to be filled with the type of knowledge required.

- 2 2 Explain the relationship between *subjective being* and *learning* (4)
2.2 Verduidelik die verhouding tussen *subjektiewe wese* en *leer*. (4)

Answer

Learning involves that the pupil (learner) actively, and as a subjective being, gets involved and participates in the process. It brings about a more or less permanent change in the learner (that is, it has a meaningful impact on the learner).

The concept ‘subjective being’ is important for learning. It presupposes that the learner is expected not to behave like an ‘object’ in the learning situation. In this regard, the learner will thus be expected to be an active participant with values, ideas, experiences and a mind that has the potential to reason critically. These two can thus not be divorced one from the other.

QUESTION 3 / VRAAG 3

“Come learn with me and we shall be exemplars of proficiency. But if you yearn to learn alone, then you must learn it on your own ”

“Come learn with me and we shall be exemplars of proficiency. But if you yearn to learn alone, then you must learn it on your own.”

3 1 Draw from what you have learnt from the study unit, “Study Skills” in the module SCL1501 and discuss the essence of the above quotation (5)

3.1 Gebaseer op wat jy geleer het in die studie eenheid “Studeervaardighede” bespreek die kern van die aanhaling bo. (5)

Answer

Answered already above

- 3.2 In the few months that you have registered with Unisa, you have discovered the importance of study groups in the lives of students, especially distance learning students. Discuss what you consider to be the crucial points to take cognisance of when forming a study group (5)
- 3.2 In die paar maande wat jy by Unisa geregistreer is, het jy die belang van studiegroepe in die lewens van studente ontdek – veral afstandsonderrig studente. Bespreek wat jy beskou as die belangrikste punte om in gedagte te hou wanneer jy 'n studiegroep vorm. (5)**

The group members must have and understand their common objective. Furthermore group members must observe the basic house rules for example, one person can speak at a time, observe time (punctuality) for meetings, and must prepare for group meetings.

Group members must have their roles defined. For instance, who will be the chairperson of the sessions, the scribe, time-keeper, organizer of venues, and so on. Members must have confidence and trust in one another. The group must be manageable. There should not be too many members. An effective group normally has between three and five members

SECTION 2
AFDELING 2

Answer ALL the questions Your answers in this section must be written DIRECTLY on the examination paper in the space provided

Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.

QUESTION 1 / VRAAG 1

“Numbers are also important for a lawyer because there are many situations that require you to apply numeracy skills”

“Syfers is ook vir regsgeleerdes belangrik omdat daar baie situasies is waar mens syfervaardighede nodig het”

1 1 What are some of the situations that require a lawyer to have numeric skills? Discuss (4)

1.1 **Wat is sommige van die situasies wat vereis dat 'n regsgeleerde syfervaardighede moet hê? Bespreek.** (4)

Answer

Answered above

1 2 The distance between Lephepane and Nkowankowa towns is 183 kilometres when using the present winding road When the new tarred and straightened road, which is under construction, is completed the distance will be 17% shorter Give a detailed calculation to determine the new distance in kilometres (2)

Answer

$$183 - 17/100 * 183$$

$$=151\text{KM}$$

QUESTION 2 / VRAAG 2

- 2.1 Mr Mpaleng Makgoba is a successful lawyer in Tzaneen, a great town in the Limpopo Province of South Africa. He has to go to Ohio in the USA to see a client. He has R25 000,00 allocated to him by his law firm, Mpaleng Royal Attorneys, to use during his visit there. How many dollars will Mpaleng have if the exchange rate is R9,50 = \$1 (US Dollar)? Give a detailed calculation. (3)
-

Answer

$$250\,000 / 9,50$$

$$= \$26\,315$$

- 2.2 Joe Makhanda, a businessman at the Maake Plaza near Lenyenyene, is the owner-driver of a Ford Bakkie. He purchased the bakkie three weeks ago for R226 000,00 VAT incl. In addition to using the bakkie for business purposes, he also uses it to transport players in his football club, Ramalema Cosmos, to various official matches in the villages of Tickeyline, Gavaza, Burgersdorp, Hlalampja, Lephepane Khujwana, Moime and Tihabine. Today, on his way from Tzaneen "to buy stock", he collides with another businessman in the area, Mabakaz Nesa, the owner-driver of a BMW 320d. Makhanda is found to have been 44% negligent, while Mabakaz is 35% negligent. The damage to the BMW is estimated to be R85 000,00. However, it is uneconomical to repair the Ford Bakkie, but its salvage value is R36 000,00. Make a detailed step-by-step calculation to determine who must pay whom, and what should be the amount of damages to be paid. (3)

Answer

Please see similar questions above and follow method of calculation

[6]

QUESTION 3 / VRAAG 3

Mpaleng Makgoba, the lawyer at Mpaleng Royal Attorneys, has agreed with his client, Joe Makhanda, that he will send him a detailed account every month. In their negotiations they decided the following will be applicable:

- R25 for every letter received
- R45 for every letter written
- R688,99 for a summons
- R35,02 per page or part thereof for an affidavit
- R55,55 per 15 minutes or part thereof for telephone consultations
- R350 per half an hour or part thereof for a consultation
- Stamps R3,70 VAT excl

In the preceding month he did the following for his client:

- 1 He received 3 letters and wrote and posted 10
- 2 He compiled a summons
- 3 He compiled an affidavit of 9 and ¼ pages
- 4 He instructed an advocate to write a document concerning the case. The advocate invoiced him for R1350,00 excluding VAT
5. He consulted with the client for 52 minutes
- 6 He consulted 4 times telephonically. Once for 18 minutes, once for 23 minutes and twice for 9 minutes each
- 7 He took his client to Tzaneen Medi-Clinic to consult a medical specialist and source a medico-legal report. The specialist charged R4750,00 excluding VAT

VAT is 14% for this exercise

Write only the total amount of expenses

(3)

Answer

You will see that the method doesn't change

NB: If the charges are, say R30 for 15 mins or any part thereof, and suppose the consultation was for 16 mins, the amount to be charged is R60 because the extra minute will be regarded as 15 mins as well, hence the phrase -any part thereof.

Services rendered		fees	expenses
		VAT included	VAT excluded
Letters written	(10 *45)	450.00	
Summons		688.99	
Affidavit	(10 * 35.02)	350.20	
Consultation	(350.00 * 4)	1400.00	
Telephonic consultation	(55.55 * 5)	277.75	
Hospital expenses			4750.00
Advocate's fees			<u>1350.00</u>
			<u><u>6100.00(excl VAT)</u></u>
			<u><u>6954.00</u></u>

NB; In this question you were only required to calculate the total expenses

**SECTION 3
AFDELING 3**

Answer ALL the questions Your answers to the questions in this section must be written DIRECTLY on the examination paper in the space provided **Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.**

QUESTION 1/ VRAAG 1

Read the following text in order to answer the questions in this section.
Lees die onderstaande gedeelte ten einde die antwoorde op vrae in hierdie afdeling te beantwoord.

Last week Saturday, DJ Janisto attended the Letaba-GTFM Music Awards The ceremony was sponsored by the Greater Tzaneen Community Radio station, the GTFM He was apparently nominated in the Traditional House category for his musical hit, "Kgapane Police" Janisto is known for his creative and innovative way of doing things, which is something that consistently sets him apart from his peers in the music industry

Some of the musicians nominated in the same category included his arch-rivals DJ Sunco, DJ Rackzen and the duo called Witty & Richy The awards were attended by just over two thousand people at the Letaba Showgrounds As soon as the presenter, Benson Molewa, announced him as the winner, the stylish Janisto suddenly ascended the stage in a full police uniform to complement his song This excited everyone in the hall

Three days ago, news spread in the whole Mopani District, including the areas of Sekgopo, Soekmekaar, Dzumeni, Sekororo, Mankweng and Dikgale, that DJ Janisto was arrested for wearing a police uniform Some people, especially his rivals, went as far as saying that he was charged with "impersonating the police" After he was released on bail, Janisto is reported to have said that some individuals in the local police station worked with his enemies to "sabotage" his career He said no one could be arrested for wearing a police uniform His supporters also believed that he was wrongfully arrested "Look, I stole nothing, I harmed no one, but now I am arrested for winning this top award I didn't commit any crime?", he remarked

DJ Janisto has made an arrangement with your secretary to come and see you in connection with the case He wants you to represent him

DJ Janisto maak 'n afspraak met jou sekretaresse om jou te kom sien oor die saak. Hy wil hê jy moet hom verteenwoordig.

1 1 What points would you consider when preparing for the meeting with him? (3)

1.1 Watter punte sal jy oorweeg wanneer jy voorberei vir die ontmoeting met hom? (3)

Answer

Research the applicable law on unlawful arrest and detention. Jot down the relevant facts or aspects that I consider essential to the case, or that which I think I might need to prove my case. These will inform me on the type of questions that I will have to ask.

1 2 Write four useful and relevant questions that you will ask him during that first consultation Explain what purpose each of those questions is meant to achieve (4)

1.2 Skryf vier bruikbare en relevante vrae neer wat jy hom wil vra met die eerste konsultasie. Verduidelik watter doel jy met elkeen van die vrae wil bereik. (4)

Answer

What's your name and how do you prefer to be called.

If he watched the last soccer match and which team he supports to avoid delving directly into the case thus giving him time to relax.

If he would care for a drink, this would make him relax and feel welcome.

I would then ask him to give me a blow by blow account of what happened to get the gist and the merits of the matter

- 1 3 Who is the proxy in this situation? (1)
1.3 **Wie is die volmaghouer in hierdie geval?** (1)

Answer

I am the proxy

- 1 4 How will you use non-verbal communication strategies to help him relax and trust you? Be specific (3)

Answer

Show empathy by nodding or shaking my head as he explains

Give facial expressions which indicates that I feel how he feels

Maintain eye contact

I would also pay genuine attention

QUESTION 2 / VRAAG 2

- 2 1. Draft an opening address in the case where your client appears in the Bolobedu magistrate's court (4)
2.1 **Skryf 'n openingsbetoog vir die saak wanneer jou kliënt in die Bolobedu landdroshof verskyn.** (4)

Answer

See answer above

NB; See the extract below from you study guide.

(a) Opening address

The purpose of the opening address is to introduce the matter to the presiding officer (magistrate or judge) briefly and simply. Normally, an opening address has the following segments:

- Address the magistrate: __Your worship__.
- State your name: __My name is Makolobe Nkgapele from Lephepane Attorneys__.
- State for whom you act: __I act for the plaintiff, Ngidi Nkoana (or defendant, Matome Motapola etc)__.
- State what the matter is about: __This is a claim for damages resulting from a motor collision that occurred on 24 September 2012 at the Bindzulani intersection near Nkowankowa township on the Lydenburg Road between Tzaneen and Lenyenye__.
- State the issue in dispute: __The parties differ on the quantum of the claim__.
- State what evidence you will present: __I will call Prof Duvenage, an expert in reconstruction of accidents, as well as Mr Seshoka (delete), a panel beater from Lenyenye, as witnesses__.

2.2 In court, how would you refer to your opponent in this case? (1)

2.2 Hoe sou jy in die hof verwys na jou opponent in die saak? (1)

Answer

The defendant

2.3 In court, your opponent asks your client the following questions:

- Did you put on a police uniform during the Letaba-GTFM Awards?
- Was Benson Molewa the presenter?
- Did you tell people that the police worked against you?

What would you do as a response to his/her way of questioning your client? Support your answer (2)

Answer

I would object to the line of questioning.

The reason is that the questions are leading questions.

2 4 Distinguish between 2.4 Onderskei tussen

- (i) Cross-examination and re-examination (3)
- (i) Hereksamen en kruisverhoor (3)

Answer

Cross-examination is the questioning of the other side's witness to check, challenge or extend the testimony already given by that witness, thus it is done by the opponent. Its purpose is to punch loopholes into the witness's version.

Whereas

Re-examination is conducted after your witness has been cross-examined. Generally, the purpose of re-examination is to try and lessen or repair the damage done during cross-examination. It is thus carried out by the lawyer on his client.

- (ii) *argumentum ad hominem* and *non-sequitur* (4)
- (ii) *argumentum ad hominem en non-sequitur* (4)

Answer

The former refers to attacking the arguer instead of the argument that he/she is making. This is the equivalent of -playing the man rather than the ball. (give example)

Whereas

The later refers to conclusions that do not follow the premise that they are supposed to be derived from

Example:

Premise 1 My dog has a tail

Premise 2 All horses have tails

Conclusion My dog is a horse [False!]

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Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.**

QUESTION 1 / VRAAG 1

“An understanding of any system depends largely on whether one knows the different roles that various participants in the system play”

“Om enige sisteem te verstaan moet jy verstaan wat die rolle is wat die verskillende deelnemers in die sisteem vertolk.”

1 1 What is the role of the South African Human Rights Commission? (2)

1.1 Wat is die rol van die Suid-Afrikaanse Menseregte Kommissie? (2)

Answer

The SHRC is tasked with monitoring both pro- actively and by way of complaints brought before it, violations of Human Rights and seeking redress for such violations. It also has an educational role.

1 2 Mention at least 4 bodies that constitute “chapter 9 institutions” (2)

1.2 Noem ten minste 4 liggame wat beskou word as "hoofstuk 9 instellings". (2)

Answer

These institutions or bodies include the

Public Protector,

The South African Human Rights Commission,

The Commission on Gender Equality,

The South African Law Reform Commission,

And various ombudsmen

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QUESTION 2 / VRAAG 2

2.1 Is there a difference between an attorney and a paralegal? Please elaborate (2)

2.1 Is daar 'n verskil tussen 'n prokureur en pararegslui? Brei asseblief uit. (2)

Answer

The Greek prefix *-para* roughly translated means *-beside*. Thus, a paralegal is a person who works *_beside_* attorneys to assist them with tasks *ancillary* to legal matters. Examples of such tasks include legal research, debt collection and the managing of a professional practice. They may also work in banks, corporate law firms, government departments (e.g. Department of Justice and Constitutional Development), legal advisory bodies and NGO's.

2.2 What are "Articles of clerkship", and why are they necessary? (2)

2.2 Wat is "leerklerkskappe" en hoekom is hulle nodig? (2)

Answer

Articles of clerkship refers such a contract between the candidate attorney and the principal attorney. This contract is registered with the Law Society. The basic terms of this agreement/contract is that the principal attorney will assist and train the candidate attorney, as well as offer him/her the opportunity to prepare for his/her admission. It is thus a pre requisite to become an attorney.

- 2.3 What is the main work of advocates? In which courts may advocates appear? (3)
- 2.3 Wat is die hooftake van advokate? In watter howe mag advokate verskyn? (3)**

Answer

Generally, the work of advocates is provided to them by attorneys to act for their clients. These instructions, from attorneys, are called *briefs*. In this regard, it is noteworthy that advocates do not interact directly with clients, but take their instructions from the attorneys who then pay them *honoraria* for their services. We also call advocates *counsel*. They appear in superior courts and magistrate courts.

QUESTION 3 / VRAAG 3

- 3 1 What is the role of a citizen as a legal actor in the South African legal system? (2)
- 3.1 Wat is die rol van die burger as rolspeler in die Suid-Afrikaanse regstelsel? (2)**

Answer

Citizens institute legal actions, become victims at one point or another can be a witness, they can also institute private prosecution.

- 3.2 Differentiate between (i) paralegal and (ii) candidate attorney (2)
- 3.2 Onderskei tussen (i) pararegslui en (ii) kandidaat prokureur. (2)**

Answer

The Greek prefix *-para* roughly translated means *-beside*. Thus, a paralegal is a person who works *_beside_* attorneys to assist them with tasks *ancillary* to legal matters. Examples of such tasks include legal research, debt collection and the managing of a professional practice. They don't practice.

Whereas

A candidate attorney refers to someone under training or supervision of an experienced or principal attorney and serves a contract of clerkship. He/she is thus not yet an attorney but becomes an attorney upon completion of the articles of clerkship.

SECTION 5 AFDELING 5

Answer ALL the questions Your answers to the questions in this section must be written DIRECTLY on the examination paper in the space provided
Beantwoord AL die vrae. Skryf u antwoorde op die vrae in hierdie afdeling DIREK op die eksamenvraestel in die ruimte toegelaat.

QUESTION 1/ VRAAG 1

- 1.1 With reference to legislation, what does “coming into force” mean? (2)
1.1 Met verwysing na wetgewing, wat beteken "inwerkingtreding"? (2)

Answer

Coming to force means commencement of legislation. This refers to the date the Act can be used as Law in any matter. The date may be stated in the Act itself or determined by the president through publication in a government gazette.

- 1.2 With reference to case law, what is a “legal action”? (2)
1.2 Met verwysing na regspraak, wat is "regsaksie"? (2)

Answer

This refers to a judicial proceeding brought by one party against the other or the process of enforcing the law by proceedings within a court system, ie *Molefe v Maheng*, Mr Molefe sues Mr Molefe.

- 1.3 How are headnotes helpful when reading a case? (2)
1.3 Hoe help kopnotas jou wanneer jy 'n saak lees? (2)

Answer

The head note is a summary of the case. It includes all the aspects of the case that the editor considers to be important. It usually includes the area of law that the case is concerned with as well as the ratio of the case. The head note is useful because it gives you an idea of what the case is all about.

- 1 4 Distinguish between the following
1.4 Onderskei tussen die volgende:

- (a) the order and the judgement of the court (4)
(a) die bevel en die beslissing van die hof (4)

Answer

Generally an order is what follows a hearing whereas a judgement follows a trial. A judgement is the final, decisive act that resolves a dispute in court. It is always in writing and signed by the judge giving it. An order on the other hand resolves dispute between parties but does not normally resolve the entire case. Dozens of orders can be issued before the final judgement.

- 1 5 How is the principle of judicial precedent applied in South Africa? (2)
1.5 Hoe word die beginsel van regspreedente toegepas in Suid-Afrika? (2)

Answer

Answered above

- 1 6 What is the "case name", and what is its importance? (2)
1.6 Wat is die "saaknaam" en hoekom is dit belangrik? (2)

Answer

Any reference to a particular case will always start with the name of that case; that is the names of the parties (or persons) involved in the case. It helps one to understand the nature of the case (whether it's a criminal or civil case).

- 1 7 In an action proceeding, the procedure is started by way of summons
What is a summon? (2)
1.7 In die aksieprosedure word die proses begin deur 'n dagvaarding.
Wat is 'n dagvaarding? (2)

Answer

Summons is an authoritative document issued by the clerk of court or registrar as the case may be, and served upon the defendant by the sheriff of the court notifying him/her of proceedings instituted against him/her. They are thus used to commence action proceedings. There are civil summonses as well as criminal law summons.

- 1.8 What service(s) does a Government Gazette provide? (1)
1.8 Watter dienste word deur 'n Staatskoerant verskaf? (1)

Public notices

New Acts of parliament

Rule nisis

etc

- 1.9 If you have the name of an article as well as the author, it will be easy to find the article in the library. However, before you start reading it, there are THREE aspects to consider. Mention those aspects. (3)
- 1.9 As jy die titel van 'n artikel en die outeur het, sal dit maklik wees om die artikel in die biblioteek te vind. Maar voordat jy dit begin lees, is daar DRIE aspekte wat jy moet oorweeg. Noem hierdie aspekte. (3)

Answer

Answered above