Tutorial letter 201/1/2017

Professional Ethics
LJU4802

Semester 1

Department of Jurisprudence

IMPORTANT INFORMATION:
This tutorial letter contains important information about your module.
1 FEEDBACK ON THE ASSIGNMENTS

ASSIGNMENT 01: 30 / 3 = 10 MARKS (10% of the semester mark)

You could have answered in any way you wanted.

Your answers shouldn’t be as short as we state it here. It should be in meaningful sentences and/or paragraphs, referring to the case.

1. Facts of the case:
   More or less the following:

   Plaintiff: Truck driver 54.
   Defendant: The RAF.
   There was a collision. The driver fractured his little finger. Not a serious injury as defined by the RAF Act and regulations, nonetheless action was instituted against the defendant 3 years after the accident.
   A serious injury was alleged.
   R 550 000-00 were claimed for past medical and hospital expenses, future medical and hospital expenses and loss of earnings. Experts were consulted.
   The Fund’s legal representative did not challenge the assertion of a serious injury.
   Regulation 3(1)(b)(i)(ee) expressly exclude the amputation of a little finger as a serious injury.
   A cost order was sought against the Fund.
   The court found this case was an abuse of the Court and its processes.

2. Unethical behaviour:
   Attorney for the plaintiff:
   Described the injury as serious – knowing it is not.
   Instituted action knowing there was no prospect of a successful claim.
   They changed the injury to: “a compound fracture of the right hand”. This was an overstatement.
   There was no hospitalisation or physiotherapy, yet, it was claimed for.
   Ignored the exclusion by Regulation 3(1)(b)(i)(ee).
   Requested expert reports knowing it was not necessary or even required.
   They just wanted a cost order.

   Counsel: Should have seen there is no case and advised the attorneys accordingly.

   Legal representative of the RAF:
   Did not apply his/her mind – did not challenge the assertion of a serious injury.
The Fund was complicit in not even explaining why they agreed to pay costs on the High Court scale. They did not attempt to explain why they agreed to burden the Fund with the costs of unnecessary medico-legal reports.

[39] “The Fund’s approach to litigation constitutes a serious dereliction of its duties to road accident victims, the public and the court.

Summary:

[36] “The lawyer’s actions are *prima facie* lacking in probity. It would appear their duty to act honestly toward the court and strictly in the best interest of their clients was sacrificed on the altar of personal enrichment.”

3. Each student’s own view BUT it was not necessary

4. The matter should not have appeared on the Court’s roll. The lawyers wasted the time of the Court and were only interested in getting paid. (Own views!)

5. Presentation and Honesty declaration and referencing / bibliography

**ASSIGNMENT 02 – MULTIPLE CHOICE ASSIGNMENT** (Counted 10% of the year semester mark)

**Question 1**

2 was the correct answer

**Question 2**

4 was the correct answer

**Question 3**

3 was the correct answer

**Question 4**

4 was the correct answer

**Question 5**

2 was the correct answer

**Question 6**

4 was the correct answer

**Question 7**

4 was the correct answer
Question 8
3 was the correct answer

Question 9
2 was the correct answer

Question 10
2 was the correct answer

2 PREPARATION FOR EXAMINATION

It is your responsibility to ensure that you check with the University as to whether you qualify to sit for the examination or not. Check your Tutorial Letter 101/2017 for examination admission information in this course.

When preparing for the examination, bear in mind the following:

- You have received two tutorial Letters (including this one).

- You have all the study material prescribed in your Professional Ethics Study Guide LJU413J (LJU4802).

- You will be required to answer all the questions in the examination. The total of the examination is 100. Question 1 = 30 marks, Question 2 = 20 marks, Question 3 = 30 and Question 4 = 20. The questions have subsections contributing to the final mark.

- Please note: You need to plan your use of time well.

- The duration of the examination will be two hours – you will have to write fast!!!!

- We expect you to use good language and structure your answers well.

- There is nothing like an exam scope. Every prescribed reading material in this module is examinable.
PLEASE NOTE!

For a varied number of reasons, students do well in assignments. Be warned! If you obtained a good mark for your assignments, it does not necessarily mean that you will obtain a good mark in the examination. The examination is written under very different circumstances, there is a time limit, and your knowledge is tested without you having your study material in front of you. Of course there will be no multiple choice questions in the examination!

With best wishes

DR F D MNYONGANI
PROF M SLABBERT