

PROKUREURSEKSAMEN

DEEL 1 HOFPROSEDURES

30AUGUSTUS2006

09:00-12:15

Totaal: [100]

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van 3 uur volg dan.

1. Kandidate moet al die vrae beantwoord.
2. Die vrae mag in Afrikaans of Engels beantwoord word.
3. Kandidate moet daarop let dat punte vir goeie opstelwerk toegeken word.
4. Waar nodig, moet kandidate hulle eie feite versin.
5. Skryf asseblief slegs in pen op die regterkantse bladsye.
6. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling in hierdie deel ingeroep as 50% en meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel druipe.

ATTORNEYS' EXAMINATION

PART 1 COURT PROCEDURES

30AUGUST2006

09:00-12:15

Total: [100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 3 hours then follows.

1. Candidates must answer all the questions.
2. The questions may be answered in English or Afrikaans.
3. Candidates must remember that marks are awarded for good draftsmanship.
4. Candidates must invent their own facts wherever necessary.
5. Please write only in pen on the right-hand pages.
6. Except if a special reason exists, a candidate will not be required to do an oral in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

VRAAG 1 [3]

Lys ten minste ses noodsaaklike dokumente (behalwe die eisvorm – Vorm 1) wat deur 'n weduwee aan die Padongelukke Fonds verskaf moet word ter ondersteuning van 'n verlies van onderhoudseis ten opsigte van haarself en haar minderjarige kinders.

VRAAG 2 [5]

John Smith, die enigste broodwinner, het R120 000,00 per jaar as 'n uitvoerende amptenaar verdien. Hy het gesterf as gevolg van beserings wat hy opgedoen het in 'n motorbotsing wat op 28 Februarie 2005 plaasgevind het. Hy was oorleef deur sy weduwee, Elizabeth, en twee kinders, die tienjarige Jane en Errol wat agt jaar oud is.

2.1 Ten einde die eise vir verlies van onderhoud te bereken, hoe sal u die oorledene se inkomste tussen sy weduwee en kinders verdeel? (2)

2.2 Mnr Smith het aan 'n pensioenfonds bygedra wat R200 000,00 uitbetaal het en aan 'n lewens-assuransie polis, die opbrengste waarvan R400 000,00 behoort. Moet u hierdie bedrae in ag neem wanneer die onderhoudsverlies bereken word? Die oorledene het self die pensioen en polis beding en die premies ingevolge daarvan betaal. (2)

2.3 Neem aan dat die eis onbeperk is, maar dat John Smith aan diens gesterf het. Die Vergoedingskommissaris het die volgende bedrae uitbetaal:-

- | | | |
|------|-----------|------------|
| i) | Elizabeth | R75 000,00 |
| ii) | Jane | R15 000,00 |
| iii) | Errol | R20 000,00 |

Verduidelik hoe dit die weduwee en kinders se eise teen die Padongelukke Fonds sal beïnvloed. (1)

QUESTION 1 [3]

List at least six essential documents (other than the claim form – Form 1), which must be furnished to the Road Accident Fund by a widow in a loss of support claim for herself and her minor children.

QUESTION 2 [5]

John Smith was the sole breadwinner earning R120 000,00 per annum as a senior executive. He died as a result of injuries sustained in a motor vehicle collision that occurred on 28 February 2005. He leaves behind his widow Elizabeth and two children, Jane who is ten years old and Errol who is eight years old.

2.1 For the purposes of calculating the claims for loss of support, how will you apportion the income of the deceased amongst his widow and children? (2)

2.2 Mr Smith contributed towards a pension fund, which paid out R200 000,00 and to a life insurance policy, the proceeds of which amounted to R400 000,00. Do you take such amounts into account when calculating the loss of support? Motivate your answer. The deceased arranged the pension and policy himself and paid all premiums in connection therewith. (2)

2.3 Assume that the claim is unlimited but John Smith was killed on duty. The Compensation Commissioner compensated his widow and children as follows:-

- | | | |
|------|-----------|------------|
| i) | Elizabeth | R75 000,00 |
| ii) | Jane | R15 000,00 |
| iii) | Errol | R20 000,00 |

Indicate how this will affect the widow and children's claim against the Road Accident Fund. (1)

VRAAG 3 [8]

U is deur mnr X geraadpleeg. Hy was 'n passasier in 'n minibus taxi NJ 426 wat in 'n ongeluk betrokke was met 'n ander voertuig ND1234. Die taxi het nie 'n geldige permit uitgereik in terme van die Padvervoer Wet, gehad nie. Die botsing is alleenlik deur die nalatigheid van die bestuurder van voertuig ND1234 veroorsaak. U kliënt is erg beseer in die ongeluk en het skade gely in die volgende bedrae:

- | | | |
|------|-----------------------------------|-------------|
| i) | Gelede mediese en hospitaalkostes | R 40 000,00 |
| ii) | Verlies van inkomste | R 60 000,00 |
| iii) | Algemene skadevergoeding | R100 000,00 |

a) Sal daar enige beperkings wees ten opsigte van sy eis? Motiveer u antwoord. (3)

b) Neem aan dat slegs die bestuurder van die minibus taxi nalatig was. Hoe sal u u kliënt adviseer en watter stappe sal u neem om voort te gaan met sy eis vir die skade wat hy gely het? (3)

c) In die ongeluk soos omskryf in die aanhef hierbo, is u kliënt se valstande, bril en pruik beskadig. (Waarde R15 000,00). Hoe sal u u kliënt adviseer ten opsigte van 'n eis vir hierdie items? Van wie sal u hierdie skade kan eis? (2)

VRAAG 4 [2]

U kliënt vertel u dat terwyl hy sy motorvoertuig op die N2 snelweg bestuur het, het hy met 'n voertuigband gebots wat vanaf 'n vragmotor geval het aangesien dit nie behoorlik vasgemaak was nie. As gevolg van die botsing het u kliënt se voertuig omgerol en hy is erg beseer. Het u kliënt 'n eis teen die Padongelukke Fonds? Bespreek en motiveer u antwoord.

QUESTION 3 [8]

You are consulted by Mr X who was a passenger in a minibus taxi NJ 426 which did not have a valid permit issued to it in terms of the Road Transportation Act and which was involved in a collision with another vehicle ND 1234. The collision was due entirely to the negligence of the driver of motor vehicle ND 1234. Your client was seriously injured and he suffered damages in the following amounts:

- | | | |
|------|------------------------------------|-------------|
| i) | Past medical and hospital expenses | R 40 000,00 |
| ii) | Loss of earnings | R 60 000,00 |
| iii) | General damages | R100 000,00 |

a) Will there be any limitations in respect of his claim? Motivate your answer. (3)

b) Assume that only the driver of the minibus taxi was at fault. What advice will you give your client and how will you proceed to claim the damages suffered by him? (3)

c) In the collision described in the introduction hereof, your client sustained damages to his false teeth, spectacles and wig. (Total R15 000,00). What advice would you give him in respect of a claim for these items that were damaged in the collision? From whom will you claim such damages? (2)

QUESTION 4 [2]

Your client tells you that whilst driving his motor vehicle on the N2 freeway he collided with a tyre which had fallen from a truck because it was not properly secured. As a result thereof your client's vehicle somersaulted and he was seriously injured. Does your client have a third party claim against the Road Accident Fund? Discuss and motivate your answer.

VRAAG 5 [2]

Neem aan dat die Padongelukke Fonds, voor dagvaarding uitgereik was, 'n verklaring van die bestuurder van die versekerde voertuig, verkry het. Is u kliënt, wat 'n eis teen die Fonds het, geregtig op 'n afskrif van hierdie verklaring?

VRAAG 6 [5]

U tree op namens die eiser wie aksie teen die Padongelukke Fonds ingestel het vir skadevergoeding as gevolg van die nalatigheid van die versekerde bestuurder. Die Fonds het skriftelik aanspreeklikheid vir die eiser se skadevergoeding erken. U kliënt kan nie na sy werk teruggaan nie, het nie voldoende fondse om homself te onderhou nie en dit sal ten minste 'n jaar wees voordat die saak voor die Hof kan kom.

Die volgende eise is in u kliënt se dagvaarding uiteengesit:

- | | |
|-------------------------------------|-------------|
| a) Gelede mediese en hospitaalkoste | R 80 000,00 |
| b) Toekomstige mediese koste | R 60 000,00 |
| c) Gelede verlies van inkomste | R 40 000,00 |
| d) Toekomstige verlies van inkomste | R150 000,00 |
| e) Algemene skadevergoeding | R100 000,00 |

6.1 Watter regs-middel is in terme van die Hofreëls aan u kliënt beskikbaar om sy posisie te verlig? (2)

6.2 Lys die bewerings wat in 'n dokument uiteengesit moet word wat as gevolg van u advies voorberei moet word. (3)

QUESTION 5 [2]

Assume that the Road Accident Fund obtained a statement from the driver of the insured vehicle before summons was issued. Is your client, who has a claim against the Fund, entitled to a copy of such statement?

QUESTION 6 [5]

You act on behalf of a Plaintiff who has instituted an action for damages against the Road Accident Fund due to the negligence of an insured driver. The Road Accident Fund has in writing admitted liability for the Plaintiff's damages. Your client is unable to work and has no funds to support himself and it will take approximately one year for the matter to come to trial.

Your client's summons contains the following claims:

- | | |
|---------------------------------------|-------------|
| a) Past Hospital and Medical Expenses | R 80 000,00 |
| b) Future Medical Expenses | R 60 000,00 |
| c) Past Loss of Earnings | R 40 000,00 |
| d) Future Loss of Earnings | R150 000,00 |
| e) General Damages | R100 000,00 |

6.1 What remedy is available in terms of the Court Rules to alleviate your client's plight? (2)

6.2 List the allegations which should be made in a document to be prepared in consequence of your advice. (3)

VRAAG 7 [11]

Koos en Anna van der Merwe is die mede-trustees van die VDM Familietrust 'n inter vivos trust, wat 'n bedrag van R120 000,00 aan u kliënt verskuldig is. Hierdie eis is gebaseer op 'n tjek, waarvan u kliënt die wettige houër is, gedateer 12 Februarie 2006, getrek op Standard Bank van SA, Bloemfontein tak en in u kliënt se rekening gehou te Absa Pretoria inbetaal op 13 Februarie 2006 en onteer is op 20 Februarie 2006, gemerk verwys na trekker.

U adviseer u kliënt om voorlopige vonnis dagvaarding uit te reik.

- 7.1 Welke ander dagvaarding/s sou u in die Hooggeregshof kon gebruik het?(1)
- 7.2 Siteer die verweerder/s. (4)
- 7.3 Stel die eisorsaak met insluiting van die bedes op.
(U hoef nie die eiser/s / verweerder/s weer te siteer nie). (5)
- 7.4 Moet die voorlopige vonnis dagvaarding op beide Koos en Anna beteken word of is betekening op een van hulle voldoende? (1)

VRAAG 8 [14]

U tree op namens die verweerder in 'n bestrede Hooggeregshofgeding. Die saak is oor twee maande op verhoor. Kort na sluiting van pleitstukke het u 'n kennisgewing ingevolge Reel 35(1) op die eiser se prokureurs beteken waarin u die eiser versoek om bloot te lê. Daar was geen reaksie op die kennisgewing nie en ook nie op 'n daaropvolgende brief waarin u aangedring het op blootlegging nie. U benodig die eiser se blootleggingsverklaring asook 'n geleentheid om die dokumente wat in die eiser se besit is in te sien en te kopieer. Sonder so 'n

QUESTION 7 [11]

Koos and Anna van der Merwe are the co-trustees of the VDM Family Trust, an inter vivos trust which is indebted to your client in the amount of R120 000,00. The claim is based on a cheque dated the 12 February 2006 of which your client is the legal holder. The cheque drawn on the Standard Bank of SA, Bloemfontein branch was deposited into your client's account, held at Absa Pretoria, on the 13 February 2006 and dishonoured on the 20 February 2006, marked refer to drawer.

You advise your client to issue provisional sentence summons.

- 7.1 What other High Court summons/es could you have used? (1)
- 7.2 Cite the defendant/s. (4)
- 7.3 Draft the cause of action including the prayers.
(You need not cite the plaintiff/s/defendant/s) (5)
- 7.4 Must the provisional sentence summons be served on both Koos and Anna or is service on one of them sufficient? (1)

QUESTION 8 [14]

You act for the defendant in a defended high court action which is coming to trial in two months' time. Shortly after the pleadings had closed, you served a Rule 35(1) notice on the plaintiff's attorneys calling on to the plaintiff to discover. There has been no response to this notice or to a subsequent letter in which you demanded discovery. You need the plaintiff's discovery affidavit and an opportunity to inspect and copy relevant documents you believe are in the plaintiff's possession. Without this opportunity, your client is being prejudiced in its pre-trial preparation.

geleentheid, word u kliënt benadeel in sy voorbereiding vir die verhoor. Aangesien u versoeke om bloot te lê ignoreer word, besluit u om die Hof te nader vir 'n gepaste bevel.

8.1 Sal u die:

- kort kennisgewing van mosie (Vorm 2), of die
- lang kennisgewing van mosie (Vorm 2a) gebruik?

(1)

8.2 Stel die bedes wat ingesluit moet word in die kennisgewing van mosie op. Laat die kopstuk, inleiding en voetstuk van die kennisgewing van mosie weg. Begin u antwoord met die woorde: "vir 'n bevel in die volgende terme" en beperk u antwoord tot die regshulp wat u verlang. (4)

8.3 Stel die eedsverklaring op wat ter ondersteuning van die aansoek gebruik sal word. Laat die kopstuk en die kommissaris van ede se attestasie klousule weg. MOENIE die regshulp wat die verweerder in die kennisgewing van mosie versoek in die eedsverklaring herhaal nie. (6)

8.4 Wanneer word pleitstukke geag gesluit te wees in terme van Reël 29? (3)

VRAAG 9 [5]

Bespreek kortliks die omstandighede waaronder 'n hof 'n pleit van skuldig sal verander na 'n pleit van onskuldig.

VRAAG 10 [8]

U klient is 'n student by die Universiteit van Pretoria. Hy is aangekla van aanranding met die opset om ernstig liggamlike leed te berokken en hy erken dat hy sy kameraat, wie hom van van diefstal van sy geld beskuldig het, aangerand

As your requests for the plaintiff's discovery affidavit have been ignored, you decide to apply to court for an appropriate order.

8.1 Would you use the:

- short form notice of motion (form 2), or the
- long form notice of motion (form 2a)?

(1)

8.2 Draw the form of order prayed for inclusion in the notice of motion. Omit the heading, preamble and the ending of the notice of motion. Begin your answer with the words "for an order in the following terms" and restrict your answer to the form of relief you want the court to grant your client. (4)

8.3 Draw the affidavit which will be filed in support of the application. OMIT the heading and the commissioner of oaths' attestation clause. DO NOT repeat the relief which the defendant seeks in the notice of motion in the affidavit. (6)

8.4 When are pleadings deemed to be closed in terms of Rule 29? (3)

QUESTION 9 [5]

Briefly discuss the circumstances under which a court will change a plea of guilty to one of not guilty.

QUESTION 10 [8]

Your client is a student at the University of Pretoria. He has been charged with assault with the intent to do grievous bodily harm and he admits that he assaulted his roommate who accused him of having stolen his money. He further states that

het. Hy verklaar verder dat sy kamermaat op verskeie vorige geleenthede soortgelyke beskuldigings teenoor hom gemaak het en daarna die artikels ten opsigte waarvan hy u klient van diefstal beskuldig het, gevind het.

U klient het die perseel vroeg die oggend van die dag waarop die geld weggeraak het verlaat en laat die nag terugkeer. Hy is van diefstal in die teenwoordigheid van sy vriendin beskuldig en het as gevolg van die beskuldiging so kwaad geword dat hy sy kamermaat twee keer met sy vuus geslaan het en sy kakebeen gebreek het.

U klient is uitermate gegrief oor wat gebeur het en wil nie 'n uitgerekte hofsaak betrokke raak nie. Hy erken dat hy sy kamermaat aangerand het, maar beweer dat hy ernstig geprovokeer was. Hy was ook in die verleentheid gestel deur die feit dat die beskuldiging in teenwoordigheid van sy vriendin gemaak was.

10.1 Adviseer u klient of hy skuldig bevind kan word op die aanklag van aanranding met die opset om ernstige liggaamlike leed te berokken of enige ander klagte. Is daar enige stappe wat u moontlik kan neem te einde te verhoed dat u klient skuldig bevind word aan 'n ernstige aanklag? (4)

10.2 U poging is geslaagd. Stel die toepaslike verklaring op in terme van Artikel 112(2) (Geen opskrifte word verlang nie). (4)

VRAAG 11 [3]

Noem enige 3 (drie) voorbeelde waar daar beswaar teen 'n klagstaat gemaak kan word.

VRAAG 12 [8]

'n Beskuldigde persoon wat deur u verteenwoordig word, pleit onskuldig op 'n klagte van roof en sy verweer is een van 'n alibi, naamlik dat hy op die dag waarop die voorval na bewering

his roommate has on previous occasions made similar accusations against him and has subsequently found the items he has accused your client of having stolen.

Your client left the premises early in the morning of the day the money disappeared and returned late that night. He was accused of theft in the presence of his girlfriend and became so enraged by the accusation that he struck his roommate with his fist twice, fracturing his jaw.

Your client is extremely annoyed at what has happened and does not wish to become involved in a drawn out court case. He admits having assaulted his roommate but says that he was severely provoked. He was also embarrassed by the fact that the accusation was made in the presence of his girlfriend.

10.1 Advise your client whether he could be convicted of assault with the intent to do grievous bodily harm or any other charge. Are there any steps you could possibly take in an effort to avoid your client from being convicted of a very serious offence? (4)

10.2 Your efforts are successful. Draw the appropriate statement in terms of Section 112(2) (No headings are required). (4)

QUESTION 11 [3]

Name any 3 (three) instances in which a charge sheet maybe objected to.

QUESTION 12 [8]

An accused person whom you represent pleads not guilty to a charge of robbery and his defence is one of an alibi, namely that on the day the robbery is alleged to have taken place in

in Johannesburg plaasgevind het, in Durban was. Gedurende die lei van getuienis kom dit uit dat die roof plaasgevind het op 'n ander datum as die wat in die klagstaat vermeld is. Die aanklaer doen aansoek in terme van Artikel 86 van die Strafproseswet om die datum in die klagstaat te wysig. Hoe gaan u as regsverteenvoerwoordiger op die aansoek om wysiging reageer? Bespreek.

VRAAG 13 [1]

Wat moet die Hof in ag neem by 'n aansoek om ontslag in terme van Artikel 174, aan die einde van die staat se saak, ten einde te besluit of hy die aansoek om ontslag gaan toestaan.

VRAAG 14 [7]

U tree op namens 'n skeepsvaart maatskappy wat u opdrag gee om Renown Exporters BK te dagvaar vir R70 000,00 vir dienste gelewer gedurende Mei 2005 en ~~vir R70 000,00~~, gedurende Junie 2005 vir R30 000,00 en gedurende Julie 2005 vir R50 000,00.

- 14.1 Kan u regtens een dagvaarding in die Landdroshof uitreik ten einde die totale verskuldige bedrag te verhaal? (2)
- 14.2 Kan u dagvaarding in die Hooggeregshof uitreik? Is daar enige risiko vir u kliënt indien u dit sou doen? (1)
- 14.3 Renown Exports BK se besigheidspersoneel is in Johannesburg geleë.
- 14.3.1 In watter omstandighede kan die Durban se Landdroshof jurisdiksie hê in 'n aksie teen hulle? (1)
- 14.3.2 Watter feite moet u bewys om jurisdiksie in die Durban se Landdroshof te bepaal? (3)

Johannesburg; he was in Durban. During the leading of evidence it turns out that the robbery in fact took place on a date differing from that mentioned in the charge sheet. The prosecutor applies in terms of Section 86 of the Criminal Procedure Act to amend the date of the offence in the charge sheet. How will you as a legal representative of the accused react to the application for the amendment? Discuss.

QUESTION 13 [1]

In an application for a discharge at the end of the State's case in terms of Section 174 what must the Court look into in order to decide to grant the application for acquittal?

QUESTION 14 [7]

You act for a shipping company which instructs you to sue Renown Exporters CC for services rendered in May 2005 for R70 000,00, and in June 2005 for R30 000,00 and in July 2005 for R50 000,00.

- 14.1 Can you properly issue one summons in the Magistrate's Court to recover the total debt? Explain briefly. (2)
- 14.2 Can you issue summons in the High Court? Does your client run any risk if you do so? Explain briefly. (1)
- 14.3 Renown Exports CC have their place of business in Johannesburg.
- 14.3.1 In what circumstances could the Durban Magistrate's Court have jurisdiction in an action against them? (1)
- 14.3.2 What facts would you have to prove in order for the Durban Magistrate's Court to have jurisdiction? (3)

VRAAG 15 [3]

U word gekonsulteer deur 'n kliënt wie u meedeel dat die huurder in sy huis hom twee maande se huur verskuldig is, en, volgens 'n buurman, van voorneme is om al sy meubels uit die huis uit te verwyder en om binne 'n week uit te trek na 'n onbekende adres.

Watter stappe kan u in die Landdroshof neem om die verskuldigde huur te vorder?

VRAAG 16 [7]

Identifiseer die foute in die aangehegte uittreksel uit 'n dagvaarding (aanvaar dat al die relevante kennisgewings en ander formele informasie vereis deur die Wet op Landdroshof en Reëls elders in die dagvaarding verskyn). Motiveer kortliks hoekom u glo dit foutief is.

Uittreksel van dagvaarding

Issued by Case No.
FORM 2

REVENUE STAMP

Date stamp

.....
Clerk of the Court

**No. 2 SUMMONS COMMENCING ACTION
(ORDINARY)**

Sued out by

**LAWYERS INCORPORATED
30TH FLOOR HORNETT BUILDING
123 SPIDER'S WAY, PIETERMARITZBURG**

Lawyers Incorporated

**POSTAL ADDRESS: P.O.BOX 12345
PIETERMARITZBURG**

Signature of Plaintiff's Attorney

QUESTION 15 [3]

You are consulted by a client who tells you that the tenant in his house owes him two month's rent and, according to a neighbour, plans to move all his furniture out and leave the house for an unknown address in a week's time.

What steps can you take in the Magistrate's Court to collect the outstanding rent?

QUESTION 16 [7]

Identify the errors that appear in the attached extract from a summons (assume all the relevant notices and other formal information required by the Magistrate's Court Act and the rules appear elsewhere on the summons). Give a brief indication of why you consider them to be incorrect.

Extract of summons

Issued by Case No.
FORM 2

REVENUE STAMP

Date stamp

.....
Clerk of the Court

**No. 2 SUMMONS COMMENCING ACTION
(ORDINARY)**

Sued out by

**LAWYERS INCORPORATED
30TH FLOOR HORNETT BUILDING
123 SPIDER'S WAY, PIETERMARITZBURG**

Lawyers Incorporated

**POSTAL ADDRESS: P.O.BOX 12345
PIETERMARITZBURG**

Signature of Plaintiff's Attorney

DX 12345 PIETERMARITZBURG
TELEPHONE 3051111 FAX 3051111
B124 Refer To:
In the Magistrate's Court for the District of
DURBAN held at DURBAN

between

THE JOHN SMITH FAMILY TRUST

Plaintiff
and

MR. JOHN WILLIAMS

Defendant

TO THE ABOVEMENTIONED DEFENDANT;
Adult Male, residing at 22 St. Patrick's Road,
WALMER ESTATE, Cape Town, and whose
further particulars are to the plaintiff unknown

You are hereby summoned that you do **within 5 days** of the service of this summons deliver or cause to be delivered to the Clerk of the aforesaid Court and also the plaintiff or his attorney, at the address specified herein, a notice in writing of the intention to defend this action and answer the claim of The John Smith Family Trust, a Trust which carries on business as Merchants, at 22 Smit Street, NEW DOORNFONTEIN, Gauteng, the plaintiff herein, particulars whereof are endorsed hereunder.

(1) Particulars

(a) Plaintiff's claim is against the defendant for payment of the sum of R125 000, 00 being the amount due by the defendant to plaintiff in respect of goods sold by plaintiff to defendant at defendant's special instance and request during or about 1981, which amount despite demand the defendant has failed to pay.

(b) PLUS Interest at 25% per annum on the aforesaid sum as from the date of hereof to the date of payment.

Wherefore plaintiff prays for judgment against the defendant in the said sum, with costs. Costs, if action is undefended, will be as follows:-

DX 12345 PIETERMARITZBURG
TELEPHONE 3051111 FAX 3051111
B124 Refer To:
In the Magistrate's Court for the District of
DURBAN held at DURBAN

between

THE JOHN SMITH FAMILY TRUST

Plaintiff
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(b) PLUS Interest at 25% per annum on the aforesaid sum as from the date of hereof to the date of payment.

Wherefore plaintiff prays for judgment against the defendant in the said sum, with costs. Costs, if action is undefended, will be as follows:-

(i) Issue of Summons (Item 2 of Part II of Table A)	R277,00
(ii) Attending Court (Item 7 of Part II of Table A)	R
(iii) Judgment Fees (Item 3 of part II of Table A)	R233,00
Court fees	R20,00
Notice in terms of Rule 54(1)	R
Rule 33(23) disbursements (Value added tax)	R71,40
Sheriff's fees	R
Sheriff's fees on re-issue	R
<u>TOTAL</u>	_____

(i) Issue of Summons (Item 2 of Part II of Table A)	R277,00
(ii) Attending Court (Item 7 of Part II of Table A)	R
(iii) Judgment Fees (Item 3 of part II of Table A)	R233,00
Court fees	R20,00
Notice in terms of Rule 54(1)	R
Rule 33(23) disbursements (Value added tax)	R71,40
Sheriff's fees	R
Sheriff's fees on re-issue	R
<u>TOTAL</u>	_____

VRAAG 17 [8]

U kliënt is 'n winkelier. Hy versoek u om die onderstaande vier Landdroshof dagvaardings te verdedig. In elke geval dui aan of u glo dat u kliënt 'n geldige verweer het. Motiveer kortliks u antwoord.

- 17.1 Hy is gedagvaar op 'n gedishonoreerde tjek wat 4 jaar gelede uitgereik is. Hy erken dat hy die bedrag skuld. (2)
- 17.2 Hy is gedagvaar deur 'n winkel assistent wie hy afgedank het. Die winkel assistent eis onbetaalde lone en vergoeding vir onregmatige diensbeëindiging. (2)
- 17.3 Hy is gedagvaar deur 'n buurman wie onlangs rumatiek in sy enkel ontwikkel het as gevolg daarvan dat u kliënt se hond hom twee jaar gelede gebyt het. Die buurman het reeds, in 'n vorige aksie, vonnis teen u kliënt verkry vir skadevergoeding vir pyn en lyding veroorsaak deur hierdie aanval en vir mediese koste. Die buurman beweer in sy dagvaarding dat die rumatiek so erg is dat hy onlangs ongeskik geraak het en hy dagvaar vir skadevergoeding as 'n gevolg van sy ongeskiktheid. (2)
- 17.4 U kliënt is gedagvaar vir die prys van 'n rekenaar speletjie wat aan sy werklose, minderjarige seun verkoop is. (2)

QUESTION 17 [8]

Your client is a shopkeeper. He asks you to defend the following four Magistrate's Court summonses. In each case state whether you believe that your client has a valid defence and, very briefly, indicate your reasons for your view.

- 17.1 He is sued on a dishonored cheque drawn 4 years ago. He admits that he owes the amount. (2)
- 17.2 He is sued by a shop assistant that he had dismissed from his employment. The shop assistant claims unpaid salary and compensation for wrongful dismissal. (2)
- 17.3 He is sued by a neighbour who has recently developed arthritis in his ankle as a result of being bitten by your client's dog two years ago. The neighbour had, in a prior action, previously obtained judgment against your client for damages for pain and suffering caused by this dog bite and for the costs of medical treatment. The neighbour alleges in his summons that the arthritis is so severe that he has become disabled and he sues for damages as a consequence of his disability. (2)
- 17.4 Your client has been sued for the price of a computer game which was sold to his unemployed minor son. (2)