

PROKUREURSEKSAMEN

DEEL 1 HOFPROSEDURES

20 AUGUSTUS 2008

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 assebliefslegs 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 drup.

ATTORNEYS' EXAMINATION

PART 1 COURT PROCEDURES

20 AUGUST 2008

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 [17]

John James, terwyl hy werk toe bestuur het, was erg beseer in 'n motorbotsing wat op 1 Junie 2006 plaasgevind het.

Hy was gehospitaliseer, maar is op 25 Junie 2006 oorlede.

'n Geregtelike doodsondersoek wat gehou was, bevind dat die bestuurder van die ander voertuig alleenlik vir die ongeluk aanspreeklik was.

U word gekonsulteer deur die weduwee, Lauren. Daar is twee minderjarige kinders uit die huwelik gebore. Haar man was die hoof uitvoerende beampte van 'n IT maatskappy.

Sy verskaf die volgende verdere besonderhede:

1. Sy is die enigste erfgenaam en sal R600 000,00 erf;
2. Die oorledene het 'n versekeringspolis op sy lewe uitgeneem waarvan sy die enigste begunstigde is, van hierdie bron sal sy 'n verdere R1 650 000,00 ontvang;
3. Gedurende die huwelik was dit nie nodig vir haar om te werk nie.

Die oorledene was 58 jaar oud ten tye van sy sterfte en sou op die ouderdom van 65 jaar aftree. Sy is 52 jaar oud, en hulle twee kinders, Jenny en Joe is 14 en 10 jaar oud respektiewelik. Hulle is gesond. U kan aanneem dat al die kinders vir 4 jaar op universiteit sal studeer.

- 1.1 Vir watter periode sal die weduwee onderhoudsverlies kan eis? (1½)
- 1.2 Vir watter periode sal elkeen van die kinders onderhoudsverlies kan eis? (2½)

QUESTION 1 [17]

John James, whilst driving to work was severely injured in a motor vehicle collision that occurred on 1 June 2006.

He was hospitalised and died on the 25th of June 2006.

At an inquest it was found that the driver of the other vehicle was solely to blame for the collision.

You are consulted by his widow Lauren. There are two minor children born of their marriage. Her husband was the chief executive officer in an IT company.

She furnishes the following information:-

1. She is the sole heir and will inherit R600 000.00.—
2. The deceased had an insurance policy on his life, in which she was nominated the sole beneficiary and will be receiving R1 650 000.00.
3. She was not obliged to work during her marriage.

The deceased was 58 years old at the time of his death and would have retired at the age of 65 years. His widow is 52 years old and their two minor children Jenny and Joe are 14 and 10 years old respectively. The children are in good health. You may assume that the children will study for 4 years at a university.

- 1.1 For what period will the widow be able to claim for loss of support? (1½) *1*
- 1.2 For what period, will each of the minor children be able to claim loss of support? (2½) *2 1/2*

- 1.3 Om die eis vir onderhoudsverlies te bereken, hoe sal u die oorledene se inkomste tussen sy afhanklikes verdeel? (2)
- 1.4 Sal die opbrengs van die versekeringspolis in ag geneem word by die berekening van verlies van onderhoud? Motiveer u antwoord. (2)
- 1.5 Sal die erfenis wat die weduwee van die boedel sal ontvang, in ag geneem word wanneer die onderhoudsverlies bereken word? Motiveer u antwoord. (1)
- 1.6 Aan welke deskundige sal u opdrag gee om die eise vir onderhoudsverlies te bereken? (1)
- 1.7 Die weduwee begin werk nadat haar man oorlede is, en verdien R5 000,00 per maand. Sal hierdie inkomste in ag geneem word wanneer haar en haar kinders se eise vir onderhoudsverlies bereken word? (2)
- 1.8 Teen watter datum moet Mev James haar eis indien ten einde te verhoed dat dit verjaar in terme van die Wet? (1)
- 1.9 Die eise teen die Fonds is geskik voordat dagvaarding uitgereik is. Is u kliënt geregtig om haar koste van die Fonds te verhaal? Motiveer u antwoord. (2)
- 1.10 Die Fonds maak nie 'n skikkingsaanbod nie en u kliënt gee u opdrag om dagvaarding teen die Fonds uit te reik. Stel die sitasie van die eiser ten opsigte van die eise van die twee kinders op. (2)

VRAAG 2

[1½]

Teen watter groepe van persone loop verjaring nie in terme van die Padongelukke Fonds Wet?

- 1.3 For the purpose of calculating the claim for loss of support, how will you apportion the income of the deceased amongst his dependants? (2) *2 2 1*
- 1.4 Will the proceeds of the insurance policy be taken into account when calculating the loss of support? Motivate your answer. (2) *Yes*
- 1.5 Will the inheritance which the widow will receive from the estate be taken into account when calculating her loss of support? Motivate your answer. (1) *No*
- 1.6 Which expert would you instruct to calculate the claims for loss of support? (1) *Actuary. Actuarial Assoc.*
- 1.7 The widow commences work after the death of her husband and earns R5 000.00 per month. Will this income be taken into account when calculating the loss of support in respect of her and the children's claim? (2) *No* *1/2*
- 1.8 By when must Mrs James lodge her claim in order to prevent it becoming prescribed in terms of the Act? (1) *3 yrs from date of death of H*
- 1.9 The claims against the Fund are settled before summons is issued. Is your client entitled to recover her costs from the Fund? Motivate your answer. (2) *Yes, Att costs (calcul. in settle)*
- 1.10 The Fund makes no offer of settlement and your client instructs you to proceed with summons. Draft the citation of the plaintiff in respect of the claims of the two children. (2) *2*

QUESTION 2

[1½]

Against which classes of persons does prescription not run in terms of the R.A.F. Act?

VRAAG 3 [1½]

- 3.1 'n Minderjarige is in 'n "tref-en-trap" ongeluk op die 24ste Julie 2004 beseer. Teen watter datum moet die eisvorm by die Fonds ingedien word ten einde te voorkom dat die eis verjaar? (1)
- 3.2 Is daar enige verskil in 'n soortgelyk eis deur 'n dertigjarige persoon? Motiveer u antwoord. (½)

VRAAG 4 [3]

U word gekonsulteer deur 'n vader, wie se seun in 'n motorbotsing oorlede is as gevolg van die nalatigheid van die bestuurder van 'n motorvoertuig. Hy oorhandig rekeningstate wat bestaan uit die volgende items:

(i)	Koste van 'n doodskis	R2000.00
(ii)	Koste van die begrafnis ondernemer	R2 500.00
(iii)	Grafsteen	R5 000.00
(iv)	Verversingsonkoste vir begrafnis bywoners	R2 000.00

Adviseer u kliënt ten opsigte van die items en bedrae wat van die Padongelukkefonds geëis kan word. Gee volledige redes vir u antwoord.

VRAAG 5 [2]

U tree namens 'n behoeftige kliënt op wat u, kort voor sy eis sou verjaar, opdrag gee om skadevergoeding voortspruitend uit beserings opgedoen in 'n motorvoertuig ongeluk te eis. Die eisvorm en mediese verslae is voltooid en onderteken. U praktiseer in die platteland en die eis sal oor twee dae verjaar.

- 5.1 Hoe sal u hierdie eisvorm betyds op die Fonds aflewer? (½)

QUESTION 3 [1½]

- 3.1 A minor is injured in a "hit and run" accident on 24th July 2004. By what date must the claim form be lodged with the Fund to prevent the claim from prescribing? (1)
24th July 2004
- 3.2 Is there any difference in the case of a similar claim by a 30 year old person? Motivate your answer. (½)

QUESTION 4 [3]

You are consulted by a father, whose son was killed in a motor vehicle collision due to the negligence of the driver of a motor vehicle. He produces statements of accounts which consist of the following items:

(i)	Cost of coffin	R2 000.00 ✓
(ii)	Cost of Undertaker	R2 500.00 ✓
(iii)	Gravestone	R5 000.00 ✓
(iv)	Refreshment costs of mourners	R2 000.00 ✓

Advise your client as to which items and what amounts may be claimed from the Road Accident Fund. Give reasons for your answer.

QUESTION 5 [2]

You act on behalf of an indigent client who consults with you shortly before his claim will prescribe regarding a claim for damages arising from injuries sustained in a motor vehicle collision. The claim form and medical report are completed and signed. You practice in the country and the claim will prescribe in 2 days time.

- 5.1 How would you lodge the claim form timeously with the Fund. (½)

- 5.2 In hierdie omstandighede wanneer word dit geag dat die eisvorm afgelewer is? (1/2)
- 5.3 In watter ander voorgeskrewe manier mag die eisvorm afgelewer word indien die tyd nie so kort was nie? (1/2)
- 5.4 Hoe sal u aflewering aan die Fonds bewys in elk van die bogenoemde omstandighede? (1/2)

- 5.2 When is the claim form deemed to have been lodged in these circumstances? (1/2) *date post recd 1/2*
- 5.3 If time is not of the essence, what is the other prescribed manner of lodgement of the claimform? (1/2) *1/2 delivery to nearest RAR office*
- 5.4 How would you prove service on the Fund in each of the aforementioned instances? (1/2) *1/2 - Stamp copy - proof of post paid by post*

VRAAG 6 [18]

QUESTION 6 [18]

U konsulteer met mnr Amos Khumalo op 'n Dinsdagoggend. Hy is die enigste lid van Ajax Enterprises Bk. Hy wys u 'n koerant wat 'n advertensie bevat deur die balju van die Hooggeregshof van 'n eksekusie verkoping van 'n Isuzu bakkie, die eiendom van Ajax Enterprises Bk.

You are consulted on a Tuesday morning by Mr Amos Khumalo, the sole member of Ajax Enterprises CC. He shows you a newspaper containing an advertisement by the sheriff of the High Court of a sale in execution of an Isuzu light delivery vehicle, the property of the CC.

Hy deel u mee dat die beslote korporasie op 'n daaglikse basis staat maak op die gebruik van die bakkie en dat die besigheid geen inkomste kan genereer sonder die bakkie nie. Verder sê hy dat hy geen kennis dra van die dagvaarding of enige ander dokumente wat verband hou met die verkoping in eksekusie nie. Die balju was die vorige dag by sy besigheidperseel van die beslote korporasie om die voertuig te verwyder maar kon dit nie kry nie. Hy het die werknemers van die Bk meegedeel dat hy die volgende dag sou terugkom om die voertuig te verwyder omdat dit op die Vrydag van dieselfde week verkoop moet word. U het die eiser se prokureur versoek om die verwydering en verkoping oor te hou maar hy weier.

He tells you that the CC relies on the use of this vehicle in its business on a daily basis and that it cannot generate income without it. He furthermore informs you that he has no knowledge of the summons or of any subsequent documents to which the sale in execution relates. The sheriff has been to the business premises of the close corporation the previous day to remove the vehicle but could not find it and informed staff members that he would be back the following day as the vehicle was to be sold on the Friday of the same week. You requested the attorney for plaintiff to hold over the removal and sale but he refused.

*Court order
Wage + appl*

U het die hoflêer van die saak nagegaan en het vasgestel dat die dagvaarding op die verkeerde adres beteken is (Kerkstraat 17, Bloemfontein, in plaas van Kerkstraat 71, Bloemfontein). U merk op dat die skuldoorsaak vir goedere verkoop en gelewer is en dat vonnis by verstek toegestaan

You perused the court file and ascertained that the summons was served on an incorrect address (17 Church Street, Bloemfontein instead of 71 Church Street, Bloemfontein). You also noted that the cause of action is for goods sold and delivered and the judgment was granted by default

WHO WHERE WHEN HOW WHY WHAT!

is aan Great Value (Edms) Bpk, die eksekusie skuldeiser. U kliënt deel u mee dat die koopprys van die goedere reeds betaal is. Hy gee bewys daarvan aan u in die vorm van 'n kwitansie wat gedateer is voor die datum van die uitreiking van die dagvaarding.

to Great Value (Pty) Ltd, the execution creditor. Your client informs you that the purchase price was in fact paid and produces proof in the form of a receipt dated prior to the issuing of the summons.

U kliënt vra u om aansoek te doen vir opskorting van die lasbrief vir eksekusie en daarna vir tersydestelling van die vonnis.

He wishes you to apply for a stay of execution of the writ and thereafter to launch an application for rescission of judgment.

Stel slegs die volgende dokumente op.

Draft the following documents only:

- 6.1 Kennisgewing van mosie vir die opheffing van die lasbrief vir eksekusie. (Sluit die kopstuk in). (10)
- 6.2 Die beëdigde verklaring ter ondersteuning van die aansoek om tersydestelling van vonnis. (Sluit die die kopstuk in maar laat die attestasie klousule van die kommissaris van ede uit). (8)

- 6.1 Notice of motion for the stay of the writ (include the heading). (10) ^D
- 6.2 The affidavit in support of the eventual application for rescission of judgment (include the heading but omit the attestation clause of the commissioner of oaths). (8) ^U

VRAAG 7 [7]

QUESTION 7 [7]

U verteenwoordig die verweerder in 'n aksie waarin die eiser skadevergoeding in die som van R200 000,00 eis wat voorspruit uit 'n motorvoertuig botsing by 'n kruising tussen die eiser se vragmotor en verweerder se motorvoertuig. Beide voertuie is beskadig as gevolg van die botsing.

You represent the Defendant in an action in which the Plaintiff claims damages in the sum of R200 000,00 arising from a motor vehicle collision, which occurred at an intersection involving the Plaintiff's truck and the Defendant's motor vehicle. Both vehicles were damaged as a result of the collision.

U het tot die slotsom gekom dat die hof op die meriete 'n verdeling van skuld van 60/40% teen u klient behoort te maak. U kliënt se eie skade beloop die bedrag van R100 000,00.

You have concluded that on the merits the Court should apportion fault 60/40% against your client. Your client's own damages amount to the sum of R100 000,00.

- 7.1 Bereken die bedrag wat u, u kliënt sal adviseer om te tender. (2)
- 7.2 Sit kortliks die vereistes van reël 34 van die Eenvormige Hofreëls uiteen ten einde 'n geldige tender te maak om u

- 7.1 Calculate the amount which you would advise your client to tender. Set out your calculations. (2) ²
- 7.2 Briefly set out the requirements of rule 34 of the Uniform Rule of Court to make a valid tender in order to limit your client's

kliënt se aanspreeklikheid vir verdere koste van die aksie sover as moontlik te beperk. (3)

liability for further costs of the action as far as possible. (3)

7.3 Op die veronderstelling dat volgens u berekenings ingevolge 2.1 hierbo 'n bedrag minder is as die monetêre jurisdiksie van die Hooggeregshof bepaal het, sal u koste op die Hooggeregshof-skaal aanbied of nie? Motiveer asb u antwoord. (2)

7.3 Assuming that you have in your calculations in 7.1 above arrived at an amount which is less than the monetary jurisdiction of the High Court, will you tender costs on the High Court scale or not? Please motivate your answer. (2)

VRAAG 8 [18]

QUESTION 8 [18]

U kliënt, 'n 19 jarige eerste oortreder, word deur sy 35 jarige vriend oortuig, nadat die twee 'n paar biere gedrink het, om 'n bank te beroof. Voordat hulle die rooftof aan die gang sit steel die twee 'n motorvoertuig om mee te vlug van die toneel. Die vriend besit 'n ongelisensiëerde vuurwapen waarmee hy, gedurende die rooftog, die bankwerknemers dreig. U kliënt bestuur die voertuig vanaf die toneel. Hy is nie in besit van 'n bestuurderslisensie nie. Dieselfde dag word u kliënt en sy vriend gearresteer en die gesteelde voertuig en geld is teruggevind. Hulle word daarna in die streekshof aangekla van gewapende roof met verswarende omstandighede, besit van 'n ongelisensiëerde vuurwapen, diefstal van 'n motorvoertuig en die bestuur van 'n motorvoertuig sonder 'n geldige bestuurderslisensie. U kliënt pleit skuldig aan al die aanklagtes en as gevolg van die medebeskuiddigde se pleit van onskuldig, beveel die landdros dat die verhoore van die twee beskuiddigdes geskei word. U kliënt word skuldig bevind.

Your client, a 19 year old first offender, is persuaded by his 35 year old friend, after having consumed a few beers, to rob a bank. Prior to the robbery the two accused steal a motor vehicle to be used during the robbery. The friend has an unlicensed firearm with which he threatens bank officials during the robbery. During the getaway the vehicle is driven by your client who does not have a driver's licence. Your client and his friend are arrested the same day and the stolen vehicle and monies are recovered. They are subsequently charged in the regional court with armed robbery with aggravated circumstances, possession of an unlicensed firearm, theft of a motor vehicle and driving a motor vehicle without a valid driver's licence. Your client pleads guilty to all the charges and because his co-accused has pleaded not guilty, the magistrate orders a separation of trials. Your client is found guilty.

8.1 Watter faktore sal u onder die hof se aandag bring in u betoog ter versagting van vonnis en welke beginsels van beide die gemene reg en die statutêre reg, sal u in u argument opper. (10)

8.1 What factors will you bring to the court's attention in your address in mitigation of sentence and what principles of both the common law and the statutory law, will you address in your argument? (10)

8.2 U kliënt is gevonnisd tot 18 jaar direkte gevangenisstraf ten opsigte van die roof, twee jaar gevangenisstraf ten opsigte

8.2 Your client is sentenced to 18 years direct imprisonment in respect of the robbery, two years imprisonment in respect of the

van die besit van 'n ongelisensiëerde vuurwapen, twee jaar gevangenisstraf ten opsigte van die diefstal van 'n motorvoertuig en 'n boete van R300,00 of 150 dae gevangenisstraf ten opsigte van die bestuur van 'n motorvoertuig sonder 'n geldige bestuurslisensie. U ontvang instruksies om 'n aansoek te bring vir verlof om te appelleer teen vonnis. Stel die aansoek, insluitende die hoof, op. (6)

8.3 Binne welke periode moet 'n beskuldigde aansoek doen vir verlof om te appelleer en word naweeksdag en publieke vakansiedag in berekening gebring in die bepaling van hierdie periode? (2)

VRAAG 9 [4]

U kliënt het onskuldig gepleit ten opsigte van 'n klagte van onsedelike aanranding. Nadat die Staat getuienis gelei het sluit die Staat sy saak. Bespreek die beginsels wat u in aanmerking sal neem wanneer u u kliënt adviseer om sy saak te sluit sonder die lei van enige getuienis.

VRAAG 10 [3]

Gedurende die verloop van 'n verhoor is getuienis deur 'n staatsgetuie gelei wat verskil van u kliënt se weergawe in verskeie aspekte.

10.1 Wat is u plig gedurende die kruisondervraging van die getuie met betrekking tot die weergawe van u kliënt in soverre dit verskil met die van die getuie? (2)

10.2 Watter gevaar loop u kliënt indien u, as regsvertegenwoordiger, nie hierdie plig nakom nie. (1)

possession of an unlicensed firearm, two years imprisonment in respect of the theft of a motor vehicle and a fine of R300,00 or 150 days imprisonment in respect of the driving of a motor vehicle without a valid driver's licence. You receive instructions to bring an application for leave to appeal against sentence. Draw the application, including the heading.

*Leave to appeal. (6) 4
Learned Magistrate did not ...
Age, 1st time off, peer pressure, other options
beside prison, guilty plea, clean hands*

8.3 What is the period of time within which an accused is to apply for leave to appeal and are weekend days and public holidays taken into account in calculating this period? Yes. (2) 0

QUESTION 9 [4]

Your client has pleaded not guilty to a charge of indecent assault. The State leads evidence and closes its case. Discuss the principles that you will consider in advising your client to close his case without leading any evidence.

*S 174.
proof beyond reasonable doubt?
discharged proof state?*

QUESTION 10 [3]

During the course of a trial the state witness gives evidence against your client which is contradictory to your client's version in a number of respects.

10.1 What is your duty during cross examination of the witness with regard to the version of your client insofar as it differs from that of the witness? (2) 1/2
scrutinise yr client's version upon the witness.

10.2 What is the danger should you as the legal representative, not comply with this duty? (1) 1

VRAAG 11 [7]

Die verweerder gee aan u 'n instruksie om 'n voorlopige vonnis dagvaring wat op hom beteken is te verdedig, op grond van sy tjek in die bedrag van R80,000 wat gedishonoreer is. Hy het die tjek gegee as betaling vir 'n tweede handse motor voertuig wat hy gekoop het. U kliënt deel u mee dat hy die voertuig in terme van 'n privaat ooreenkoms gekoop het, nadat hy 'n advertensie in 'n koerant gesien het. Toe hy oppad terug na sy plaas gery het, het al die olie uit die oliebak dreinerings gat uitgeloop en het die enjin vasgebrand wat uitebreide herstelwerk benodig het. U kliënt sê dat hy daarna die bank instruksie gegee het om betaling van die tjek te stop. U stel u kliënt se beëdigde verklaring in terme van die genoemde feite op, om die aksie te opponeer. Die eiser repliseer by wyse van 'n beëdigde verklaring en suggereer dat indien die olie gelek het, die gat in die oliebak veroorsaak was deur die voertuig wat in iets vasgery het op die plaas pad na die verweerder se huis, aangesien die eiser nie bewus was van enige olie lek voordat hy die voertuig aan die verweerder oorhandig het nie.

- 11.1 Watter uitspraak verwag u dat die landros sal lewer by die verhoor? Verduidelik kortliks hoekom u dink hy so 'n uitspraak sal lewer. (3)
- 11.2 Neem aan dat die landros ten gunste van die eiser gevind het en die verweerder wil voortgaan met die saak, watter stappe moet die verweerder neem? (3)
- 11.3 Neem aan dat die eiser nie doen wat hy gevra word om te doen nie, welke regte het die verweerder? (1)

VRAAG 12 [6]

U het namens 'n kliënt dagvaarding uitgereik waarin u skadevergoeding eis, synde die herstelkoste van haar voertuig veroorsaak deur 'n botsing. Die verweerder teken nie verskyning

QUESTION 11 [7]

The defendant instructs you to defend a provisional sentence summons issued against him for the sum of R80,000 in respect of a dishonoured cheque which your client tells you he gave as the purchase price of a second-hand car. Your client tells you that he bought the car by way of a private sale as a consequence of seeing an advertisement in a newspaper. But when he was on his way home to his farm, all the oil in the sump drained out of the sump drainage hole and the engine seized, requiring very extensive repairs. Your client says he then instructed his bank to stop payment of the cheque. You draw your client's affidavit to oppose the provisional sentence summons along the aforementioned lines. The plaintiff responds by filing affidavit in which he suggests that if the oil leaked out, the hole in the sump must have come from the vehicle striking an object on the farm road on the way to the defendant's home, as he was not aware of any leak coming from the sump before he gave delivery to the defendant.

Noets fees

- 11.1 What judgment would you expect the magistrate to hand down at the hearing? Very briefly explain why he would give such judgment. (3) 1/2
- 11.2 Assuming the magistrate found in favour of the plaintiff and the defendant wished to pursue the matter, what steps should the defendant take? *Appeal/Review* (3) 1/2
- 11.3 Assume that the plaintiff does not do what he may be called on to do, what are the defendant's rights? (1)

QUESTION 12 [6]

You have issued summons on behalf of a client for damages sustained in a collision, being the repair costs to her motor vehicle. The defendant does not enter an appearance to defend and you

tot verdediging aan nie en u wil 'n versoek om vonnis by verstek indien. U het reeds die versoek om vonnis by verstek opgestel. Stel die addisionele dokument op wat u nodig ag ter staving van die aansoek.

VRAAG 13 [2]

U kliënt gee u opdrag om aksie in te stel vir die verhaal van die koste van die herstel van sy motorvoertuig wat beskadig was in 'n motor botsing. Die verweerder verdedig die aksie en dit kom op verhoor. Wanneer opdrag gegee was het u kliënt foto's van die ongelukstoneel gegee wat deur 'n verbygaande voetganger geneem is. Is daar enige spesiale stappe wat u moet neem om die foto's te kan gebruik as getuie tydens die verhoor? Sit die stappe uiteen in puntvorm.

VRAAG 14 [4]

U kliënt gee u instruksie om 'n huurder wat twee maande agterstallig is met sy huur te dagvaar vir R20,000. U reik die dagvaarding uit en beteken dit op die verweerder. Daarna vind u uit dat u kliënt bedoel het dat die huur eintlik R20,000 'n maand was. Teen die tyd wat u die fout agterkom, het die verweerder reeds 'n verskyning om te verdedig aangeteken.

14.1 Welke prosedure sal u volg om die fout reg te stel? (1)

14.2 Neem aan dat die verweerder beswaar wil maak teen die stap om die fout te herstel, welke stappe sal hy moet neem? Moet nie die dokument wat namens die verweerder geliasseer moet word opstel nie maar dui aan wat die dokument moet bevat. (2)

14.3 Neem aan dat die verweerder se beswaar onsuksesvol was, wat moet die eiser daarna doen om die prosedure wat geneem is te finaliseer? (1)

Damages! NB

wish to apply for default judgment. You have already drafted a request for default judgment. Draft the document that you will have to file in support of your application.

*- Affidavit
- proof of damages amount*

QUESTION 13 [2]

Your client instructs you to sue for the cost of repairing his motor vehicle which was damaged in a collision. The defendant defends the action and it comes to trial. When you were instructed, your client handed you some photographs taken at the scene by a passer by. Are there any special steps you have to take to get the photographs admitted as evidence during the trial? List the steps in pointform.

*discovery - make
+ request discovery*

QUESTION 14 [4]

Your client instructs you to sue a tenant for two months' arrear rent in the sum of R20,000. You issue summons and then discover that what your client meant was that the rent was R20,000 per month. You discover this after the defendant entered an appearance to defend.

14.1 What procedure would you follow to correct this mistake? (1)

14.2 Assume the defendant objects to your endeavouring to correct the mistake, what must he do? Do not draw the document that must be filed on behalf of the defendant, but indicate what the document should contain. (2)

*Motion
Court order*

14.3 Assuming the defendant's objection was unsuccessful, what must the plaintiff do thereafter to finalise the procedure? (1)

*continue with court
case as per court rules*

VRAAG 15 [6]

Het die landdros hof jurisdiksie in die volgende sake?

- 15.1 'n Aansoek vir die likwidasië van 'n beslote korporasie. (1)
- 15.2 'n Eis gebaseer op 'n gedishonoreerde tjek vir R100 000,00. (1)
- 15.3 'n Aansoek vir die aanstelling van 'n curator *ad litem*. (1)
- 15.4 'n Aksie vir 'n egskeiding wat nie geopponeer word nie. (1)
- 15.5 'n Aansoek vir die sekwestrasie van 'n persoon se boedel. (1)
- 15.6 'n Aansoek vir die heraanstelling van 'n werker wat op 'n onwettige wyse afgedank is. (1)

QUESTION 15 [6]

Does the magistrate's court have jurisdiction in the following matters?:

- 15.1 An application for the liquidation of a close corporation. *No* (1)
- 15.2 A claim based on a dishonoured cheque for the sum of R100 000,00. *Yes* (1)
- 15.3 An application for the appointment of a curator *ad litem*. *No* (1)
- 15.4 An action for an unopposed divorce. *No* (1)
- 15.5 An application to sequester the estate of an individual. *No* (1)
- 15.6 An application for the reinstatement of a wrongfully dismissed employee. *No - L court* (1)

DIE EINDE

THE END