

PROKUREURSEKSAMEN

DEEL 1 HOFPROSEDURES

26 JULIE 2011

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. Kandidate moet daarop let dat punte vir goeie opstelwerk toegeken word.
3. Waar nodig, moet kandidate hulle eie feite versin.
4. Skryfassesbliesigs in pen op die regterkantse bladsye.
5. 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 druip.

ATTORNEYS' EXAMINATION

PART 1 COURT PROCEDURES

26 JULY 2011

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. Candidates must remember that marks are awarded for good draftsmanship.
3. Candidates must invent their own facts wherever necessary.
4. Please write only in pen on the right-hand pages.
5. 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 [20]

QUESTION 1 [20]

U word deur u klient Mev Sarah Nkosi geraadpleeg en sy lig u as volg in:

You are consulted by your client Mrs Sarah Nkosi who advises as follows:

- (a) Haar man met wie sy binne gemeenskap van goedere getroud was, is op 8 Junie 2010 oorlede as gevolg van liggaamlike beserings wat hy in 'n motorbotsing opgedoen het wat op 13 Maart 2010 plaasgevind het.
 - (b) Hy was vanaf die ongeluksdatum tot 12 Mei 2010 bewusteloos.
 - (c) Twee kinders wat 7 en 12 jaar oud was ten tye van hulle vader se afsterwe, is uit die huwelik gebore.
 - (d) Ten tye van sy sterfte het die oorledene R240 000,00 per jaar verdien uit sy werk as 'n Siviele Ingenieur.
 - (e) In 'n siviele saak ingestel deur die eienaar en bestuurder van die ander voertuig wat in die botsing betrokke was, is bevind dat die oorledene 60% verantwoordelik was vir die botsing.
 - (f) Sy deel u ook mee dat hospitaal, mediese en begrafniskostes aangegaan is. U advies aan u klient is dat sy en haar kinders eise vir verlies van onderhoud het as gevolg van Mr Nkosi se sterfte. Sy aanvaar u raad en gee u opdrag om die eise in te stel.
- 1.1 Om hierdie eise te boekstaaf moet sekere dokumente die RAF1 eisevorm vergesel. Noem hierdie dokumente. (4)
- 1.2 Sit puntsgewys die bewerings uiteen wat in die besonderhede van eis tot u Klient se dagvaarding gemaak moet word ten opsigte van die eise vir verlies van onderhoud alleenlik. (5)

- (a) Her husband to whom she was married in community of property died on the 8th June 2010 as a result of bodily injuries he sustained in a motor collision that occurred on the 13th March 2010.
 - (b) He was unconscious from the date of the accident until the 12th May 2010.
 - (c) There are two children born of the marriage aged 7 and 12 years at the time of their father's death.
 - (d) At the time of his death the deceased was earning R240 000,00 per annum from his employment as a civil engineer.
 - (e) A recent civil trial instituted by the owner and driver of the other vehicle involved in the aforesaid collision, the deceased was found to be 60% to blame for the collision.
 - (f) She also informs you that hospital, medical and funeral expenses were incurred. You advised your client that she and her children have claims for loss of support arising from the death of Mr Nkosi. She accepts your advice and instructs you to proceed with the claims.
- 1.1 To substantiate the claims certain documents have to accompany the RAF1 claim form. Name these documents. (4)
- 1.2 In point form set out the allegations that have to be made in the particulars of claim to your client's summons relating to the claims for loss of support only. (5)

- 1.3 Vir welke tydperke sal u kliënt verlies van onderhoud vir haarself en haar kinders kan eis? Toon aan hoe die oorfedene se jaarlikse inkomste tussen die eisers verdeel sal word en op welke bedrag hierdie berekening gemaak sal word? (4)
- 1.4 Teen welke datums sal u die RAF-1 eisvorms ten opsigte van die weduwe en die kinders se eise moet indien? (2)
- 1.5 Inaggenome die bevinding wat alreeds deur 'n hof gemaak is dat die oorledene 60% verantwoordelik was vir die botsing, sal die Fonds geregtig wees om 'n verdeling van aanspreeklikheid toe te pas? Motiveer u antwoord. (2)
- 1.6 Mag die eisers rente op die bedrag van hul eise eis en, indien wel, teen watter koers en vanaf welke datum? (2)
- 1.7 Welke begrafnis onkoste is u kliënt geregtig om van die Fonds te eis? Motiveer u antwoord. (1)

VRAAG 2 [3]

U tree namens u kliënt op wat 'n saak teen die Padongelukke Fonds vir skadevergoeding ingestel het as gevolg van die natatigheid van 'n versekerde bestuurder. Die Fonds het aanspreeklikheid vir die eiser se skade erken. U kliënt kan nie werk nie en het geen geld om homself te onderhou nie. Dit sal omstreeks 'n jaar wees voordat die saak tot verhoor kom. U kliënt se dagvaarding bevat die volgende eise:-

- (a) Gelede hospitaal en mediese onkoste R 80 000,00
- (b) Toekomstige mediese onkoste R 60 000,00
- (c) Gelede verlies van inkomste R 40 000,00
- (d) Toekomstige verlies van inkomste R 150 000,00
- (e) Algemene skade R 100 000,00

1.3 For what periods will your client be able to claim loss of support on behalf of herself and her children? Show how the deceased's annual income will be apportioned among the claimants and on what amount will this calculation be made? (4)

1.4 By what dates will you have to lodge the RAF-1 claim forms in respect of the widow's claim and those of the children? (2)

1.5 Will the Fund be entitled to apply an apportionment of liability bearing in mind that a finding had already been made by a Court to the effect that the deceased was 60% to blame for the collision? Motivate your answer. (2)

1.6 May the claimant claim interest on the amount of the claim and, if so, at what rate and from when can such interest be claimed? (2)

1.7 What funeral expenses is your client entitled to claim from the Fund? Motivate briefly. (1)

QUESTION 2 [3]

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. 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 R 150 000,00
- (e) General damages R 100 000,00

Welke regs­middel is kragtens die hofreëis beskikbaar om u kliënt se dilemma te verlig?

VRAAG 3 [11]

U is bewus daarvan dat die Padongelukke Fonds na dagvaarding op die Fonds beteken is, 'n verklaring van die versekerde bestuurder verkry het. Is u geregtig op 'n afskrif van die verklaring? Motiveer u antwoord.

VRAAG 4 [11]

Neem aan dat die Padongelukke Fonds 'n verklaring van die bestuurder van die versekerde voertuig voordat dagvaarding uitgereik is, verkry het. Is u kliënt geregtig om 'n afskrif daarvan te verkry? Motiveer u antwoord.

VRAAG 5 [101]

U kliënt Ashika Singh deel u mee dat sy oor baie jare besigheid as algemene handelaar in vennootskap met Fatima Hassim bedryf het. Kragtens die skriftelike vennootskaps­ooreenkoms wat te Pietermaritzburg op 1 November 1995 aangegaan is, sou Fatima die boekhouding van die vennootskap hanteer en op 'n kwartaal­likse basis 'n rekening­staat met waar nodig dokumentêre bewyse wat die finansiële aangeleenthede van die vennootskap uiteensit, opstel. Gedurende Desember 2010 het Fatima die liefde van haar lewe ontmoet en al hoe minder tyd aan haar pligte bestee, terwyl Ashika steeds voortgegaan het om daaglikse besigheid te bedryf.

Op die 30ste Junie 2011 het die partye skriftelik ooreengekom om met onmiddellike ingang die vennootskap te ontbind. Ashika sou vir eie rekening voortgaan om die besigheid te bedryf maar Fatima het onderneem om finansiële state vir die tydperk Januarie 2011 tot Junie 2011, teen n­later nie as 15 Junie 2011 voor­te­lê. Dit sou wins­deling moontlik maak.

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

QUESTION 3 [11]

You are aware that the Road Accident Fund has obtained a statement from the insured driver after summons was served on it. Are you entitled to obtain a copy of such statement? Motivate your answer.

QUESTION 4 [11]

Assuming that the Road Accident Fund obtained a statement from the driver of the insured vehicle before summons was issued, is your client entitled to a copy of such statement? Motivate your answer.

QUESTION 5 [101]

Your client Ashika Singh informs you that she has for many years conducted the business of general dealer in partnership with Fatima Hassim. In terms of the written partnership agreement entered into on the 1st of November 1995 and at Pietermaritzburg, Fatima had to keep the books of the partnership and on a quarterly basis render statements of account reflecting the financial affairs of the partnership, supported where necessary with documentary proof. During December 2010 Fatima met the love of her life and while Ashika carried on with the day to day running of the business, Fatima spent less and less time on her duties.

On the 30th of June 2011 the parties agreed by way of a written agreement to dissolve the partnership with immediate effect and agreed that Ashika will carry on with the business for her own account. Fatima undertook to render a statement of account by 15 July 2011 for the period 1 January 2011 to 30 June 2011. This would make sharing of profits possible.

Ten spyte van herhaalde versoeke en selfs wettige aanmaning is niks voorgelê nie. Die gevolg is dat Ashika geen idee het van die finansiële posisie vir die tydperk Januarie tot Junie 2011 nie en ook nie in staat is om haar deel van die winste op te eis nie.

Stel die nodige besonderhede van vordering op om u klient te help om die probleem op te los. Gebruik sodanige addisionele feite as wat u mag benodig.

VRAAG 6

[10]

U ontvang opdrag van u klient, Moeketsi Phalatsi dat hy gekonfronteer word met twee botsende aansprake van twee aanspraakmakers, Jan de Waalen Piet Grobler vir betaling van die bedrag van R245 000 ten opsigte van goedere verskaf en dienste gelewer.

Hy bevestig dat hy die goedere ontvang het en dat die dienste gelewer is maar omdat al die onderhandelinge telefonies gevoer is en omdat beide aanspraakmakers betrokke was het hy geen idee wie om te betaal nie.

Na ondersoek van die aangeleentheid kom u tot die gevolgtrekking dat die betekening van 'n tussenpleit aansoek die geskikste manier is om u klient se belange te beskerm.

Stel die tussenpleit kennisgewing in terme van Reël 58 op. U moet nie die applikant se eedsverklaring ook opstel nie.

VRAAG 7

[5]

7.1 Daar is vier uitsonderings op die algemene reël dat 'n party getroud binne gemeenskap van goed nie regsdeding kan instel of verdedig sonder die skriftelike toestemming van haar/sy eggenoot nie. Noem die vier gevalle. (2)

Despite numerous requests and even lawful demand nothing has been presented with the result that Ashika has no idea of the financial position for the period January to June 2011 and has not been able to access her share of the profits.

Draft the necessary particulars of claim to assist your client in resolving the situation, using such additional facts as you may find necessary.

QUESTION 6

[10]

You are instructed by your client Moeketsi Phalatsi that he is faced with adverse claims from two claimants, Jan de Waal and Piet Grobler who both claim payment of the amount of R245,000 in respect of goods supplied and services rendered.

He acknowledges that he received the goods and benefited from the services and thus owes the amount but as all the preceding negotiations took place telephonically and as both parties were involved he has no idea to whom payment should be made.

After investigating the matter you come to the conclusion that serving an interpleader notice is the best possible way of safeguarding your clients' interests.

Draft the interpleader notice in terms of Rule 58. Do not draft the affidavit.

QUESTION 7

[5]

7.1 There are four exceptions to the general rule that a party married in community of property cannot sue or defend legal proceedings without the written consent of his/her spouse. Name these four instances. (2)

7.2 Vergelyk 'n versoek om nadere besonderhede in die landdroshof en 'n versoek om nadere besonderhede in die hoë hof. (3)

VRAAG 8 [7]

8.1 U klient, 'n prominente politikus, is deur die polisie gearresteer op klagtes van bedrog en korrupsie ter waarde van R50 miljoen. Hy is op die Donderdag voor Goeie Vrydag, 12 uur die middag gearresteer. U ontvang 'n noodoproep van u klient waarin hy u inlig dat hy verskeie openbare vergaderings op Goeie Vrydag, 'n publieke vakansiedag asook die Saterdag, Sondag en Maandag van die Paasaweek moet bywoon. Hy deel u mee dat hy onskuldig is en gee u opdrag om onmiddellik sy vrylating uit polisie-aanhouding, te bewerkstellig.

8.1.1 Is u klient geregtig om gedurende die naweek voor die hof te verskyn vir doeieindes van 'n borgaansoek? (1)

8.1.2 Indien die polisie besluit om u klient nie aan te kla nie, watsy regte? (1)

8.1.3 Die polisie besluit om u klient aan te kla. Verduidelik die magte van die polisie en die aanklaer om borg toe te staan. (2)

8.2 U klient deel u mee dat hy vorige veroordelings het en dat daar verskeie klagtes teen hom aanhangig is. Sal u die hof hiervan gedurende die borgaansoek verwittig en indien wel, waarom? (1)

8.3 U klient verskyn voor die hof op die volgende Dinsdag oggend en u kry opdrag om onmiddellik 'n borgaansoek te loods. Die ondersoekbeampte lig die hof in dat sy 'n geleentheid benodig om verdere

7.2 Compare a request for further particulars in the magistrate's court and a request for further particulars in the high court. (3) 11

QUESTION 8 [7]

8.1 Your client, a prominent politician, is arrested by the police on charges of fraud and corruption estimated at R50 million. He is arrested at 12 noon on the Thursday preceding Good Friday. He telephones you from the police cells in desperation and tells you that he has to attend various public meetings on Good Friday, being a public holiday, as well as the Saturday, Sunday and Monday of the Easter weekend. He professes his innocence and instructs you to immediately obtain his release from police custody.

8.1.1 Is your client entitled to be brought before court for the purposes of a bail application over the weekend? (1)

8.1.2 If the police decide not to charge your client, what are his rights? (1) 12

8.1.3 The police decide to charge your client. Explain the authority of the police and the prosecutor to grant bail. (2)

8.2 You are instructed that your client has both previous convictions and other charges pending against him. Will you inform the court of these facts during a bail application and, if so, why? (1)

8.3 Your client is brought to court on the following Tuesday morning and instructs you to bring the bail application there and then. The investigating officer, however, informs the court that she needs an

materiële getuienis, wat verlore kan raak indien borg toegestaan word, in te win. Mag die hof die borgaansoek in hierdie omstandighede uitstel en indien wel, vir hoelank? (1)

- 8.4 Mettertyd word borg deur die hof geweier en u kry opdrag om appél teen hierdie beslissing aan te teken. Is dit nodig om 'n aansoek om verlof tot appél teen die hof se beslissing te bring? (1)

VRAAG 9 [1]

Terwyl u Kliënt in aanhouding is, deel die ondersoekbeampte mee dat hy 'n bloedmonster van u Kliënt wil neem vir die doeleindes van DNA toetse. Hy versoek verder dat u Kliënt 'n uitkenningsparade bywoon. Watter magte het die polisie in hierdie verband?

VRAAG 10 [3]

U Kliënt is skuldig bevind aan twee klagtes naamlik moord en die onwettige besit van 'n vuurwapen. Die hof lê vonnisse van 20 jaar direkte gevangenisstraf op vir die moord en 10 jaar gevangenisstraf ten opsigte van die onwettige besit van 'n vuurwapen. Die hof dui nie in sy beslissing aan of die vonnisse kumulatief of gelyktydig uitgedien moet word nie. Hoelank sal u Kliënt in die gevangenis aangehou word? Verduidelik kortliks.

VRAAG 11 [3]

U Kliënt is aangekla van een klag van huisbraak. Gedurende die verhoor getuig die Klaer dat hy teenwoordig was ten tye van die inbraak maar nie u Kliënt kan identifiseer nie. Geen verdere getuienis word deur die staataangebied voordat die staat sy saak sluit nie. Wat is u Kliënt se opsies ten opsigte van die verdere verloop van die verhoor? Noem die toets wat deur die hof toegepas sal word ten opsigte van elke opsie.

opportunity to procure material evidence that may be lost if bail is granted. Can the court postpone the bail application in these circumstances and if so for how long? (1)

- 8.4 In due course the court refuses the bail application and you are instructed to appeal this decision. Is it necessary for you to bring an application for leave to appeal the decision of the court? (1)

QUESTION 9 [1]

Whilst your client is in detention, the investigating officer informs you that he wants to take blood samples from your client for the purposes of DNA testing and furthermore he requires your client to attend an identity parade. What powers do members of the police have in this regard?

QUESTION 10 [3]

Your client is convicted on two counts, namely murder and the illegal possession of a firearm at a criminal trial. The court sentences your client to 20 years direct imprisonment for the murder and 10 years imprisonment for the illegal possession of a firearm. The court is silent in its decision as to whether the sentences are to run cumulatively or concurrently. How long is your client liable to serve in prison? Include brief reasons in your answer.

QUESTION 11 [3]

Your client is charged with one count of housebreaking. The complainant testifies during the trial that he was present when the house was broken into but he cannot identify your client. No further evidence of identity is presented by the State before it closes its case. What options does your client have in regard to the further process of the trial and mention the test the court will apply with regard to each option.

VRAAG 12

[7]

U klient, Siphwe Shabalala, 'n 20jarige regstudent aan die plaaslike universiteit, is aangekla van aanranding met die opset om ernstig te beseer. Hy verduidelik aan u dat op 21 April 2010 hy van plan was om uit te gaan om 'n bier te geniet. Hy was besig om die deur van sy voertuig oop te maak, toe hy deur 'n onbekende man aangerand is. U klient het gereageer deur terug te slaan en as gevolg daarvan het die aanvaller sy bewussyn verloor. U klient het die aanvaller onmiddellik hospitaal toe geneem waar hy hom gelaat het en daarna het hy die insident by die polisie stasie aangemeld. Totsy verbasing is hy so agt maande daarna gearresteer en aangekla van aanranding in verband met hierdie insident. Hy gee u opdrag om 'n Art. 115 pleitsverduideliking namens hom op te stel.

12.1 Stel die pleitsverduideliking op, sonder die kopstuk. Gebruik u eie feite waar nodig. (4)

12.2 Wat word van die hof verwag voordat die pleitsverduideliking aanvaar word? (2)

12.3 Kan u klient deur die aanklaer gekruis-ondervra word met betrekking tot sy pleitsverduideliking? (1)

VRAAG 13

[4]

U klient lig u in dat sy voertuig in 'n motorongeluk beskadig is. Die herstelkoste bedra R46 000. Die bestuurder van die ander voertuig is aangekla en skuldig bevind van bestuur onder die invloed van alkohol en word binnekort gevonniss. U klient wil graag sy skade verhaal.

13.1 Adviseer u klient van die prosedure vervat in die Strafproseswet wat gevolg moet word om sy eis vir skadevergoeding in te stel. (2)

13.2 Hoe word die bedrag wat toegeken kan word, bereken? (1)

QUESTION 12

[7]

Your client, Siphwe Shabalala, a 20-year-old law student at the local university, is charged with assault with intent to do grievous bodily harm. In explaining the incident he instructs you that he intended to go out for a beer on 21 April 2010 and that as he opened his car door an unidentified male attacked him. Your client retaliated and in the process he punched the assailant resulting in the assailant losing consciousness. He promptly took the assailant to hospital where he left him and proceeded to the police station to report the incident. To his surprise some eight months later your client is arrested and charged with assault relating to this incident. He instructs you to prepare a Sec. 115 plea explanation on his behalf.

12.1 Draft the explanation of plea, excluding the heading, making up facts wherever appropriate. (4)

12.2 What should the court do before accepting the plea explanation? (2)

12.3 Can your client be cross-examined by the prosecutor with reference to his plea explanation? (1)

QUESTION 13

[4]

You client advises that his motor vehicle was damaged in a collision. The cost of repair amounts to R46 000. The driver of the other vehicle was charged with and found guilty of driving under the influence of alcohol and will be sentenced shortly. You client wishes to recover his damages.

13.1 Advise your client of the procedure to be followed in terms of the Criminal Procedure Act to pursue his claim for compensation. - 500 (2)

13.2 How is the amount awarded to be determined? (1)

13.3 Wat is die effek van die hofbevelen welke stappe is tot u Kliënt se beskikking indien die beskuldigde nie die bevel na kom nie? (1)

VRAAG 14 [10]

14.1 In 'n verhoor in die Landdroshof voortspruitend uit 'n motorbotsing, is die enigste getuie die van die twee bestuurders wat geheel en al verskillende weergawes gee van wat gebeur het. Die landdros kan nie besluit wie van die twee getuies geglo moet word nie. Welke bevel behoort die landdros te maak? (2)

14.2 Na die uitspraak kom 'n onafhanklike getuie na vore en stel hom aan die eiser voor. Hy deel die eiser mee dat hy die ongeluk gesien het en ten volle met die eiser se weergawe saamstem. Is daar enige stappe wat die eiser kan doen en, indien wel, wat? (2)

14.3 U Kliënt nader u nadat 'n dagvaarding op hom beteken is in 'n Landdroshofaksie waarin Joe Sparza Bk die eiser is. U Kliënt deel u mee dat die finansiële posisie van Joe Sparza Bk swak is en dat die eis kwelsugtig is en toon 'n brief aan u deur die eiser wat dit bevestig. Wanneer u verskyning aanteken, is daar enigiets anders wat u behoort te doen in dieligg van u instruksies? Indien wel, watsal u doen? (2)

14.4 U berei voor vir 'n verhoor in 'n aksie in die Landdroshof namens u kliënt vir verhaal van die herstelkoste van sy voertuig wat beskadig is in 'n botsing met 'n voertuig wat bestuur is deur die verweerder. Hoe sou u Eiser se skade bewys? Welke dokumente, indien enige, sou u opstel? Daar word nie van u verwag om die dokument(e) op te stel nie. (2)

13.3 What is the effect of an order made by the court and what steps are available to your client should the accused not comply with the order? (1)

QUESTION 14 [10]

14.1 In a trial in the Magistrates Court arising out of a motor collision, the only evidence is that of the two drivers, who give completely differing versions of what happened. The Magistrate is unable to decide which of the two witnesses is to be believed. What should the Magistrate order? (2)

14.2 After the judgment in the Magistrate Court, an independent witness comes forward and introduces himself to the Plaintiff and tells the Plaintiff that he saw the whole incident and fully corroborates the Plaintiff's version. Is there any action the Plaintiff can take and if so, what? (2)

14.3 Your client calls on you, having been served with a summons in a Magistrates Court in which Joe Sparza cc is the Plaintiff. Your client tells you that the financial position of Joe Sparza cc is not very sound and that the claim is vexatious and he produces a letter written by Joe Sparza cc to that effect. When you enter an appearance is there anything you ought to do in the light of your instructions? (2)

14.4 You are preparing for Trial in an action in the Magistrates Court on behalf of your client for the recovery of costs of repairing his vehicle which was damaged in a collision. How would you prove Plaintiff's damages? What documents, if any, will you prepare? (You are not required to draft any documents). (2)

14.5 U kry opdrag om dagvaarding uit te reik vir teruggawe van 'n voertuig wat aangekoop is kragtens 'n afbetalingsooreenkoms. Die verweerder het versuim om paaiemente te betaal. Afgesien van die nakoming van die bepalings van die krediet ooreenkoms moet u eers 'n stap doen wat ingevolge die National Credit Act vereis word alvorens u regsaksie kan instel. Wat moet u doen? (2)

VRAAG 15

[7]

U tree op vir die eiser in die volgende gedinge in die landdroshof. Dui kortliks aan wat u volgende stap behoort te wees.

Watter dokumente sou u lewer?

15.1 Die eiser se eis is vir die koste van die herstel van sy voertuig wat beskadig is terwyl dit langs die pad gestaan het en die verweerder aan die slaap geraak het. Die verweerder het verskynning om te verdedig aangeteken. (1)

15.2 U klient se eis is vir die koopprys van goedere verkoopengelewer. U klient het u voorsien van 'n bestelling en 'n afleeringsnota wat beide deur die verweerder onderteken is. Die verweerder teken verdediging aan. (1)

15.3 Die verweerder het verskynning om te verdedig aangeteken en het nadere besonderhede tot u klient se dagvaarding gevra. U het hom drie weke gelede ingelig dat die reëls nie meer nadere besonderhede toelaat nie maar die verweerder het niks verder gedoen nie. (2)

15.4 Die verweerder het versuim om verskynning aan te teken binne die tien dae tydperk uiteengesit in die dagvaarding. (1)

14.5 You are instructed to issue summons for the recovery of a motor car sold on suspensive sale because the Defendant has failed to pay his instalments. Besides complying with the credit agreement you have to first do something required by the National Credit Act. What is it you have to do before you institute proceedings? (2) → 5

QUESTION 15

[7]

You act for the Plaintiff in the following actions in the Magistrates Court. Very briefly indicate what your next step ought to be.

What is the name or names of any documents you would file?

15.1 The Plaintiffs claim is for the cost of repairing his motor car which was damaged whilst he was parked at the side of the road when the Defendant drove into it when he fell asleep behind the wheel. The Defendant entered appearance to defend. (1)

15.2 Your clients claim is for the purchase price of goods sold and delivered in respect of which your client has provided you with orders and delivery notes both of which have been signed by the Defendant. The Defendant has entered appearance to defend. (1)

15.3 The Defendant has entered appearance to defend and requested further particulars to your clients summons. You informed him that the rules do not allow for further particulars three weeks ago but the Defendant has done nothing. (2)

15.4 The Defendant has failed to enter an appearance to defend within the expiry of the ten day period allowed in the summons for him to do so. (1)

15.5 U klient se eis is gebaseer op 'n tjek wat vier jaar terug onteer is. Die verweerder pleit verjaring as sy enigste verweer. (2)

15.5 Your clients claim is based on a cheque which was dishonoured four years. The Defendant has pleaded prescription as his only defence. (2)

VRAAG 16 [8]

QUESTION 16 [8]

Stel op: 'n pleit in die Landdroshof (sonder die kopstuk, beskrywing van die partye of afsluiting) op die volgende feite.

Draft a Magistrates Court plea omitting the heading and description of the parties and the ending in the following matters:

16.1 Die kontrak waarop die eis berus, bevat 'n klousule wat geskille na arbitrasie verwys. Die verweerder beweer verder dat die eiser versuim het om 'n elektriese heining om die ontwikkeling op te rig soos vereis in die spesifikasies wat deel van die kontrak is. (5)

16.1 The contract on which the Plaintiff sues contains a clause referring disputes to arbitration. Defendant further alleges Plaintiff has failed to construct an electric fence round the development required in the specification attached to and forming part of the contract. (5)

16.2 Eiser het reeds 'n finale bevel verkry oor die geskil. (3)

16.2 Plaintiff has already obtained a judgment disposing of the dispute. (3)

Shes he aktion wahl stwal dur

DIE EINDE

THE END