

**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, JULY 2008**

**TITLE OF PAPER: THE LAW OF PERSONS AND THE FAMILY**

**COURSE CODE: L203**

**TIME ALLOWED: 3 HOURS**

**INSTRUCTIONS:**

- (1) ANSWER QUESTION ONE (1) WHICH IS COMPULSORY AND ANY OTHER TWO (2) QUESTIONS OF YOUR CHOICE**
- (2) MARKS FOR QUESTIONS OR PARTS OF A QUESTION ARE SHOWN IN BRACKETS**

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### **QUESTION 1**

- (a) Discuss the general rule relating to the concept of legal personality.  
[10 marks]
- (b) List the requirements for the application of *nasciturus* fiction.  
[10 marks]
- (c) For the *nasciturus* fiction to apply, it must be to the unborn child's benefit.  
Briefly discuss this statement.  
[5 marks]
- Total [25 marks]

### **QUESTION 2**

Six months into the marriage which is without an antenuptial contract, Mr X receives expert advice from the family doctor that his wife is sterile. He is confused and angry but he is clear about one thing, and that is to end the marriage. His main problem though is how to do it without incurring any proprietary losses in the process.

He comes to you for advice. Advise him accordingly, explaining the advantages of your legal opinion.

[25 marks]

### **QUESTION 3**

Mr X disappeared 7 years ago after going fishing on the rocks on a stormy day. Mrs X applied to the High court to have a presumption of death expressed concerning her husband. Will she succeed? Assuming that she does not succeed, can Mr X's estate still be divided among his heirs?

Explain your answer with reference to authority.

[33 marks]

#### **QUESTION 4**

Write short notes on the following:

- (a) Distinguish between judicial separation and extra- judicial separation.  
[5 marks]
- (b) An order for the restoration of conjugal rights.  
[5 marks]
- (c) Distinguish condonation of adultery and connivance at adultery.  
[5 marks]
- (d) Constructive desertion.  
[6 marks]
- (a) Name the four requirements for a valid marriage.  
[4 marks]

Total [25 marks]