

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2014

TITLE OF PAPER: THE LAW OF PERSONS & THE FAMILY

COURSE CODE: L203

TIME ALLOWED: 3 HOURS

INSTRUCTIONS: (1) ANSWER ALL FOUR (4) QUESTIONS

**(2) MARKS FOR QUESTIONS OR PARTS THEREOF
ARE INDICATED IN BRACKETS**

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GRANTED BY THE INVIGILATOR**

QUESTION 1

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Mlungisi is 20 years old. He concludes a contract of sale with Mrs Mashaba, through which the former is buying a second hand computer from the latter for the sum of E7, 200.00. Mlungisi brings Mrs Mashaba under the false impression that he is 21 years old by presenting a forged identity document. He paid a deposit of E2, 000.00 and Mrs Mashaba delivered the computer to him. Mlungisi is now refusing to pay the balance of the purchase price on the ground that he is a minor and therefore not liable in terms of the contract.

- (a) A minor who makes a misrepresentation commits a delict and can be held liable in delict. This means that the prejudiced party has a claim for damages against the minor who commits such a delict. What are the requirements for delictual liability under such circumstances?

[15 marks]

- (b) Can Mlungisi recover his deposit from Mrs Mashaba? Briefly explain your answer with reference to legal authority.

[10 marks]

Total: [25 marks]

QUESTION 2

The two landmark cases of *Pinchin v Santam Insurance Company Limited* 1963 (2) SA 254 (W) and *Road Accident Fund v Mtati* 2005 (6) SA 215 (SCA) set in motion very important legal principles pertaining to the protection of the *nasciturus*. Discuss the ratio and legal principles developed in these cases in the context of the rights of the *nasciturus*.

[25 marks]

QUESTION 3

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The Marriage Act of 1964 provides for the prescribed formalities which must be complied with before, during and after the conclusion of a civil rites marriage. Briefly discuss these formalities.

[25 marks]

QUESTION 4

Adultery is a matrimonial offence within the common law jurisdictions. What does this matrimonial offence constitute and are there any defences capable of being successfully raised against it?

[25 marks]

Total Possible Marks: [100]