



UNIVERSITY OF ESWATINI

SEMESTER II **RE-SIT** EXAMINATION PAPER, JULY 2019

FACULTY OF SOCIAL SCIENCES

DEPARTMENT OF LAW

Course Code: **LAW206**

FAMILY LAW (LLB N/P)

Time allowed: 3 Hours

Instructions:

1. Answer **ALL** Questions.
2. Each Question Carries 25 Marks.
3. Begin each question on a new page.
4. Make sure that you write legibly, that your expression is clear and that you refer to authority.

Special Requirements: NONE

Additional Material(s): NONE

Candidates may complete the front cover of their answer book when instructed by the Chief Invigilator and sign their examination attendance card but must NOT write anything else until the start of the examination period is announced.

No electronic devices capable of storing and retrieving text, including electronic dictionaries and any form of foreign material may be used while in the examination room.

DO NOT turn examination paper over until instructed to do so.

QUESTION 1

Eight months ago Florencia's wealthy boyfriend, Josiah, asked her to marry him. Florencia was so overjoyed and had no hesitation accepting Josiah's proposal. Various gifts were exchanged between the parties as a sign of their commitment to each other. Florencia sold her house worth E1,500,000.00 in Malawi and relocated permanently to Swaziland impatiently waiting for the "big day" when her boyfriend for seven years will walk her down the aisle. She concluded various contracts in preparation for her wedding, including catering, hall bookings, stage setting, sound hire and entertainment, video and lighting. In total she spent E150 '000.00. Josiah, who has been in another relationship with Judith for the past three months, now refuses to marry Florencia as his heart has been stolen by Judith. Florencia has approached you for legal advice as she intends to sue Josiah for breach of promise to marry. Advise her fully making reference to relevant case law.

[25 MARKS]

QUESTION 2

Vusi and Dudu are not married to each other, but they have a 10-year-old girl child named Tebesutfu. The child stays with Dudu at Luyengo. Dudu is a drunkard and a socialite constantly visiting the famous drinking areas around Luyengo. Vusi stays with his newly found girlfriend though he intends to marry soon. He maintains the daughter and often gives Dudu a reasonable monthly payment for the expenses of the child including school fees. Vusi now wants custody of the minor child and Dudu on the other does not want to lose her only child. Despite numerous demands by Vusi to have custody of the minor child, Dudu is adamant that 'the child is going nowhere'. Advise Vusi on the following;

- (a) What course of action is open to him and to which forum? [3 marks]
- (b) What is the role of the social welfare department in such kind of applications? [5 marks]
- (c) What is the main guiding factor for the courts in determining custody of minor children? [10 marks]
- (d) Define a guardian according to the Child Protection and Welfare Act? [2 marks]
- (e) What is the role of the guardian towards a minor child? [5marks]

[25 MARKS]

QUESTION 3

(a) Discuss the nature and content of the universal community of property marriage in the context of Eswatini. [10 Marks]

(b) The South African parliament has changed the law of marriage in community of property. Describe the changes and discuss what the changes meant for the partners of the marriage. [10 Marks]

(c) Briefly explain what you understand by the accrual system of marriage. [5 Marks]

[25 MARKS]

QUESTION 4

Mandla wants to get married to Nosimilo according to civil rites in community of property. Nosimilo's uncle John wants to be the marriage officer of the marriage ceremony. Mandla is however on a study vacation in Italy and requests that the marriage be facilitated in his absence. They had arranged that Mandla be present in the marriage via a Skype video call. This will also be done at a private dwelling at Dalriach, Mbabane on a Saturday at 7.15 p.m.

(a) Advise the parties of the formal requirements for the marriage to comply with the laws of Swaziland. [15 marks]

(b) What is the difference between marriage in community of property and marriage out of community of property without the accrual system? [8 marks]

(c) What are the grounds of divorce for a civil rites marriage in Eswatini? [2 marks]

[TOTAL: 25 MARKS]

END OF PAPER