

**UNIVERSITY OF FORT HARE  
FACULTY OF LAW  
(East London Campus)**

**CIVIL PROCEDURE A  
LEC 411E / LEC 412E**

**MAY/JUNE DEGREE EXAMINATIONS  
MAIN EXAMINATION PAPER 2025**

**TIME: 3 HOURS  
SUBJECT: LEC 421E  
MARKS: 100**



**This paper consists of ELEVEN (11) pages including the cover page**

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**INTERNAL EXAMINER**

Adv S. Seti

**EXTERNAL EXAMINER**

Prof T. Van der Walt

**ASSESSMENT MEMORANDUM**

This document contains guidelines for answering the questions set in the examination paper. The information is not intended to be exhaustive: students may have different lines of argument and may disagree with the suggested conclusions, provided that they structure their answers clearly and argue their positions logically.

## QUESTION 1

The South African National Roads Agency (SANRAL), in alignment with its mandate to develop and maintain the national road network, is undertaking the replacement of a bridge near Aliwal North. This bridge spans the Orange River and serves as a vital connection between the Eastern Cape and Free State provinces. The new structure, currently under construction, is a cable-stayed steel deck bridge designed by the esteemed Danish firm Dissing+Weitling. Upon completion, the bridge will feature a main span of 580 meters, supported by two imposing pylons standing 115 meters tall.

As part of the construction of the bridge, SANRAL has a contract with the Italian firm Salini Impregilo Group for the construction of a bridge. The contract was signed in Genoa, Italy, and construction commenced in October 2024. During the construction process, a dispute arose between the parties that could not be resolved amicably. As the aggrieved party, SANRAL intends to initiate civil proceedings seeking damages amounting to R10 million against Salini Impregilo Group. However, there are concerns regarding jurisdiction, particularly given that Salini Impregilo Group is a foreign entity with no assets in South Africa.

As an Advocate and member of the Bisho Bar Society of Advocates, you have been briefed by Cool & Fair Minds Attorneys on behalf of SANRAL to provide a legal opinion addressing its concerns about jurisdiction. This opinion will also evaluate whether South African courts have jurisdiction to adjudicate this matter, and if so, which Division of the High Court(s) (Free State or Eastern Cape Division) would be applicable and the reasons for this.

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[15 Marks]

### ANSWERING / MARKING GUIDE:

The South African courts would have jurisdiction over this matter based on the principle of *ratione rei gestae* (cause of action), as established in *Einwald v The German West African Company* (1887-1888) 5 SC 86. Regarding contractual causes of action, jurisdiction lies with the courts where the contract was concluded (*forum contractus*) and those where the contract was performed or intended to be performed, either wholly or partially (*forum solutionis*). Since the contract is performed in South Africa, its courts will assume jurisdiction as the *forum solutionis*.

The challenge in this case is that the defendant is a foreign *peregrinus* with no assets in South Africa. A *peregrinus* refers to someone who is neither resident nor domiciled within the jurisdiction of the court, contrasting with an *incola*. Consequently, the initial issue pertains to two relevant and closely related principles of jurisdiction: 'Territoriality of Jurisdiction' and 'Doctrine of Effectiveness.'

The concept of 'Territoriality of Jurisdiction' entails that jurisdiction is purely territorial in its character and extent, for it is derived from the sovereign power, which is necessarily limited by the boundaries of the state over which the court hold sway. Jurisdiction does not extend beyond the boundaries of, or over subjects or subject matter, not associated with the court's ordained territory.

(*Ewing McDonald & Co Ltd v M & M Products* 1991 (1) SA 252 (AD) 256G & *Schlimmer v Executrix in Estate of Rising* 1904 TH 108 at 111)

On the other hand, the Doctrine of Effectiveness provides that jurisdiction of the court is determined by its power to grant orders that can be enforced. In *Steytler NO v Fitzgerald* the court said: "[a] court can only be said to have jurisdiction in a matter if it has the power not only of taking cognizance of the suit, but also of giving effect to its judgments".

The first challenge may be addressed if the defendant has either consented to or submitted to the jurisdiction of South Africa. In contractual situations, this is typically accomplished by including a clause in the contract in which the parties agree to submit to the jurisdiction of the courts of a specific country.

Assuming the defendant has consented to the jurisdiction of the South African courts, the value of the claim necessitates that the matter be presented before the High Court. The second issue for consideration is which division of the High Court will have jurisdiction to hear the claim: the Free State Division or the Eastern Division? The answer is that either of these two divisions can assert jurisdiction. Once proceedings are initiated, the relevant court will assume jurisdiction over issues pertaining to the other province based on the principle of *causae continentia*.

The principle of *causae continentia* is defined as: "more than one claim against different persons or in respect of different things in different jurisdictional areas may be joined in one process before one Court if it can be said that together they really constitute one case, in that the one begins where the other ends ....." (LAWSA 2nd Edition, Volume 11, at paragraph 553).

The principle of 'Causae Contententia' applies in scenarios where the Court initially has jurisdiction. Under this principle, additional causes of action may be incorporated into the existing case. The primary aim of *causae continentia* is to prevent the duplication of proceedings and to avoid conflicting decisions regarding the same matter, ultimately facilitating a more efficient resolution of cases. Specifically:

- Multiple claims against different parties or regarding different subjects across various jurisdictional areas may be consolidated into a single process before one court, provided it can be demonstrated that they collectively constitute one case, where one claim naturally begins where the other ends; and,
- Jurisdictional areas may be enforced in any of the relevant areas involved.

The following are pertinent considerations to take into account: jurisdiction concerning a specific aspect of the case; factors related to convenience; the principles of justice; and logical reasoning that supports the exercise of jurisdiction over the entirety of the matter.

The leading case on the principle of *Continentia Causae* is the Supreme Court of Appeal decision in *Permanent Secretary Department of Welfare, Eastern Cape Provincial Government and Another v Ngxuza and Others* (493/2000) [2001] ZASCA 85 (31 August 2001). Writing for the majority, Cameron JA stated the following:

"This Court has in the past not been averse to developing the doctrines and principles of jurisdiction so as to ensure rational and equitable rules. In *Roberts Construction Co Ltd v Willcox Bros (Pty) Ltd* this Court held, applying the common law doctrine of cohesion of a cause of action (*continentia causae*), that where one court has jurisdiction over a part of a cause, considerations of convenience, justice and good sense justify its exercising jurisdiction over the whole cause."

More specifically with regard to the performance of a contract relating to the construction of a bridge between two provinces, the SCA in *Nguxa* stated that:

*'[t]he partial location of the object of a contractual performance (a bridge between two provinces) within the jurisdiction of one court therefore gave that court jurisdiction over the whole cause of action. The Court expressly left open the further development and application of the doctrine of cohesion of causes. The present seems to me a matter amply justifying its further evolution. The Eastern Cape Division has jurisdiction over the original applicants, and over members of the class entitled to payment of their pensions within its domain. That in my view is sufficient to give it jurisdiction over the whole class, ....'*

## QUESTION 2

Draft the necessary reply (including plea on merits, special plea, counter-claim, if there is any) using the facts above as well as the Plaintiff's/Claimant's Particulars of Claim marked Annexure "C" below.

**[30 Marks]**

### ANSWERING / MARKING GUIDE:

On the given set of facts candidates are expected to draft a plea and, in the process, ensure that their responses are in line with the prescripts of Uniform Rules 18, 22 and any other rules that might be relevant.

The defendant must set out the title of action, which is comprised of the court, case number, parties, tramlines and the title of the process in between the tramlines. EG, see below

**IN THE HIGH COURT OF SOUTH AFRICA**  
**(EASTERN CAPE LOCAL DIVISION, BISHO)**

**CASE NO:**

In the matter between:

**PAYRITE BANK LIMITED**

Plaintiff

and

**MOFATI ALFRED OLIPHANT**

Defendant

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### DEFENDANT'S PLEA

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**NB: mark allocation for the title of the action**

## **SPECIAL PLEA(S)**

Several special pleas are relevant in this context. A special plea constitutes a distinct form of defense designed to either delay or extinguish the plaintiff's claim. Each special plea operates independently and is not contingent upon other special pleas or the merits of the case. Consequently, it is essential that each special plea is preceded by tramlines. Within these tramlines, the phrase "special plea" should be inserted, followed by a colon and a description of the nature of the special plea. EG

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### **SPECIAL PLEA: PRESCRIPTION**

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Students are required to present the following special pleas, each of which must exist independently, separated by its own tramlines, and concluded with a prayer.

1. Prescription – the claim is a debt and in terms of the Prescription Act it should be instituted within a period of 3 years. The last payment was made on 01 January 2018. Summons were issued and served on 28 May 2021. The three-year period has lapsed and therefore, the claim has prescribed.
2. Premature summons – the claim is arising out of a breach of a credit agreement as contemplated in the National Credit Act 34 of 2005. Plaintiff issued summons enforcing the recovery of the debt on 28 May 2021 and 'without any prior notice'. In terms of Section 129 read with Section 130 of the National Credit Act, the credit provider may not commence any legal proceedings to enforce the agreement before first providing notice to the consumer/debtor in terms of section 129. Therefore, the summons enforcing the debt were issued prematurely.
3. Jurisdiction – The proceedings are instituted before the Eastern cape Local Division of the High Court in Bisho. The claim is arising out of a contract which was concluded and performed in Johannesburg. The Defendant resided in Johannesburg, his estate was reported in Johannesburg, and the executor of the estate also resides in Johannesburg. A security in the form of bond was registered on 15 January 2015 against the deceased's immovable property situated at 35 Old Pine Road, Mitchell's Plain, Cape Town, and the same address was chosen as the Defendant's *domicilium citandi et executandi* ("notice address"). There is no jurisdictional link/nexus between the claim and the High Court in Bisho. Therefore, the High Court in Bisho lacks jurisdiction to entertain the matter.
4. Non-Joinder – Plaintiff seeks for an Order declaring Erf 4963, in the City of Cape Town, Cape Division, Province of the Western Cape, situated at 35 Old Pine Road, Mitchell's Plain, Cape Town specially executable. Defendant was married in community of property to Margaret Oliphant. The immovable property is a part of their joint estate. Therefore, the order of the court declaring the sale of immovable property executable will affect the rights of Margaret Oliphant, who is the co-owner thereof. Plaintiff did not join Margaret Oliphant as a party to the proceedings.
5. Misjoinder – Defendant died on 01 March 2021 and his estate was registered in the office of the Master of the High Court in Johannesburg and allocated estate number \_\_\_\_\_. On 21 March 2021 Margaret Oliphant was appointed as Executor and duly authorised as such by the Letters of Executorship issued by the office of the Master of the High Court. On 27 March 2021 an advertisement in terms of the Administration of Estates Act was made

notifying all the deceased's creditors about his death. On 28 May 2021 Plaintiff instituted proceedings against Defendant in his personal capacity.

**NB: Mark allocation for the special plea properly raised**

## **PLEA ON MERITS**

Plea on merits must follow after the last special plea. It must start with tramlines and Defendant's plea on merits in between the tramlines. EG

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### **DEFENDANT'S PLEA**

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The plea must adhere to the stipulations outlined in Uniform Rule 22. The plea on the merits should respond to the plaintiff's particulars of claim on a paragraph-by-paragraph basis. Each response must be organized in distinct paragraphs and numbered accordingly. Furthermore, responses within the plea must clearly indicate which paragraph(s) of the particulars of claim they are addressing and shall be preceded by the phrase 'AD PARAGRAPH' followed by the corresponding paragraph number from the particulars of claim.

A plea on the merits is required only when the defendant possesses a defense against the plaintiff's claim. In the present case, the defendant's defense on the merits should assert that the loan has been fully repaid.

Responses may take one of the following forms: Admit: Yes (plea of admission); Deny: No (plea of denial); Confess and avoid: Yes, but (plea of admission and avoidance); and Not admit: I have no way of knowing - you prove it (plea of non-admission).

If the defendant's response constitutes a plea of admission, this will establish a common cause fact, and further explanation is unnecessary. Conversely, should the defendant deny the allegations presented in the particulars of claim, they are required to provide a basis for this denial, thereby amplifying their reasoning.

**NB: Mark allocation for the plea on merits, properly done**

### QUESTION 3

SMS seeks your advice on whether the points raised by Mr Khakhathi in raising his defence are valid in law or not? With reference to authorities, prepare a legal opinion and advise SMS accordingly

[20 Marks]

#### ANSWERING / MARKING GUIDE:

Provisional Sentence (PS) is an extraordinary remedy designed to enable a creditor who has liquid proof of his claim to obtain a speedy judgment therefor without resorting to the more expensive and dilatory machinery of an illiquid action (*Ashersons v Panache World (Pty) Ltd* 1992 (4) SA 611 (C) at 612J-613B). The claim must be based on a liquid document. In *Rich and Others v Lagerwey* 1974 (4) SA 748 (A) at 754H the court defined a liquid document. In particular, the court stated that: '[i]f the document in question upon a proper construction thereof evidences by its terms, and without resort to evidence extrinsic thereto, an unconditional acknowledgement of indebtedness in an ascertained amount of money, the payment of which is due to the creditor, it is one upon which provisional sentence may properly be granted.'

In *Rich v Lagerwey* the court approved the counsel submission referring to a practice of long standing which authorised the grant of provisional sentence on bilateral contracts such as deeds of sale and leases. In particular, the court indicated that '[s]uch a practice would be unobjectionable, provided the document relied upon clearly evidences an unconditional undertaking to pay and ascertained a sum of money and that payment is due.' Clearly, there are two instruments that qualify as liquid documents in the present case, i.e.: (i) the bond; and, (ii) the cheque. Therefore, the validity of the defence raised by Mr Khakhathi should be addressed in relation to each of these two documents.

#### (i) Bond

The loan /bond agreement provides that in case of breach by the debtor, the creditor must first issue a notice demanding the debtor to remedy the breach with 7 days.

Two important points emerge from the definition of what constitute a liquid document for the purposes of PS proceedings, both of which are pertinent to issue under discussion here. First point is that the defendant's liability to the plaintiff must flow from the liquid document itself '*without resort to evidence extrinsic thereto*'. Second point is that the liquid document must evidence '*an unconditional acknowledgement of indebtedness*' by the debtor (defendant) to the creditor (plaintiff).

**First point is that the defendant's liability to the plaintiff must flow from the liquid document itself '*without resort to evidence extrinsic thereto*'.**

The loan /bond agreement provides that in case of breach by the debtor, the creditor must first issue a notice demanding the debtor to remedy the breach with 7 days. In terms of Uniform Rule 8(3) '*[c]opies of all documents upon which the claim is founded shall be annexed to the summons and served with it.*' This involves annexing all documents material to plaintiff's cause of action. The documents must be true copies in all material respects. If this requirement is not complied with provisional sentence may be refused or the proceedings may be postponed to enable the

plaintiff to serve a proper copy, the plaintiff to pay the wasted costs. The court may also condone the failure. The originals of the documents are handed up from the bar (technically 'surrendered') when the application is heard.

In light of the above, it is correct to assume that if the letter has been issued it is attached to the summons in line with the provision of Rule 8(3). However, Mr Khakhathi argues that even if SMS has a proof that they issued the notice such proof would constitute extrinsic evidence which is not permissible in provisional sentence summons proceedings. The pertinent question is whether a copy of the notice which is attached to the PS Summons constitutes extrinsic evidence or not?

It is trite law that the plaintiff's title and defendant's liability must appear *ex facie* the summons and the document upon which the claim is founded without resort to extrinsic evidence. However, the allegation made by the parties in the court documents (plaintiff's summons and the defendant's response) are not considered as extrinsic evidence and the court may have regard to them. On this point, the court in *Basil Read (Pty) Ltd v Beta Hotels (Pty) Limited* [2000] 1 All SA 1 (C), the court at paras 12 to 14 per Moosa J stated that: '*[r]egard, however, could also be had to the allegations in the summons and the defendant's response thereto.*' Similarly, in *Coetzee & Solomon Real Estate (Pty) Limited v Texeira* 1970 (1) SA 94 (D) at 95 the court pointed out that: *the document must be read with the summons and if the identity of a creditor, who is indicated but not named in the acknowledgement of debt, is alleged in the summons, the fate of the action for provisional sentence may well depend on the defendant's response to that allegation.*'

The plaintiff in PS proceedings must provide liquid proof of his claim and the defendant's liability must appear *ex facie* the document on which the claim is founded and this without the resort to extrinsic evidence. However, a court may have regard to allegations in the summons and the defendant's response. In *Rich v Lagerwey* the court indicated that the law enjoins courts to look beyond the form or nature of the document relied on and determine whether it fits the description of a liquid document.

In this case the defendant's liability is clear *ex facie* the cheque, which document makes it clear that payment is on 5 August 2018 depending on transfer. It thus does not meet the requirement that it be a liquid document.

**Second point is that the liquid document must evidence 'an unconditional acknowledgement of indebtedness' by the debtor (defendant) to the creditor (plaintiff).**

The loan / bond agreement provides that in case of breach by the debtor, the creditor must first issue a notice demanding the debtor to remedy the breach with 7 days. In this regard, Mr Khakhathi's alleges that SMS has not issued the notice requesting him to remedy the breach within 7 days as required in terms of the loan agreement. Therefore, his indebtedness to SMS is not unconditional as required for the purposes of provisional sentence. This of course begged the question: is the defendant's indebtedness to the plaintiff's unconditional? The answer depends on whether the notice requirement can be categorised as a simple condition or not?

In *Joosub v Edelson* 1998 (3) SA 534 the court stated that:

The simplicity or complexity of a condition such as the one in issue cannot render unconditional an otherwise conditional debt. The enquiry, when provisional sentence is sought, is a two-fold one: one must first determine whether the debt in question falls within

the parameters set in cases such as *Union Share Agency & Investment Ltd v Spain* (supra) and *Inglestone v Pereira* (supra). If it does, one then examines the condition to ascertain whether it qualifies as a simple condition. If it is, then one can merely allege in the summons and, if necessary prove, fulfilment thereof. If the claim fails the first test, however, one does not proceed to the second phase of the enquiry.

It is trite law that a 'simple condition' does not destroy the liquidity of document and render the indebtedness conditional. In describing a simple condition the court approved the argument that differentiated between the '*conditional liability*' and the '*conditional payment*'. The court endorsed the following argument as a correct statement of the law:

"If a document does no more than evidence a potential liability, the existence of which is dependent on the happening of some future state of affairs (as opposed to a document where the liability is not conditional but payment depends on the coming into existence of a future state of affairs) then the document is not a liquid document. In such a case the question of payment being dependent upon the fulfilment of a so-called simple condition does not arise. In fact, the simplicity or otherwise of the condition upon which the liability (as opposed to the payment) will arise is entirely irrelevant!"

In other words, if condition set out in the document relate to the liability in the sense that it is depended on the happening of some future event or state of affairs, such document does not qualify as liquid document for the purposes of PS proceedings. Conversely, if the condition set out in the document relate to payment meaning that it is payment (as opposed to liability) that is depended on the happening of some future event or state of affairs, that is a simple condition and the liquidity of the document is to destroyed. The debtors liability remain intact. All the plaintiff is required to do is to merely allege in the summons and, if necessary prove, fulfilment of the simple condition.

In *Carmichael Automotive (Pty) Limited v Gehlig* (13119/2019) [2019] ZAWCHC 135 (16 October 2019) the court made the following important remarks:

*From the Joosub v Edelson case we can glean the following principles. A document that only evidences a potential liability that is dependent on the happening of something in the future, is not a liquid document and thus does not meet the requirements of rule 8. This accords with the Basil Read judgment. However, if payment (as opposed to liability) is dependent on a future event, it will meet the requisites for provisional sentence. In this instance, the acknowledgement of debt was payable on a certain date. If that was where it ended, the plaintiff might have prevailed. However, it was not. Liability, as opposed to payment alone, was dependent on transfer and for this reason the plaintiff falls foul of the principles enunciated in Joosub v Edelson.*

In *Rich v Lagerway* the court stated further that:

*'If payment is dependent upon the fulfilment of a condition or the happening of an event, which can only be proved by extrinsic evidence, provisional sentence can only be granted if the case falls within the rule formulated in Pepler v Hirschberg, supra. Therefore, if, e.g., payment is conditional upon the performance by the plaintiff of obligations in terms of the document relied upon, it does not, in my opinion, without more, entitle him to rely on an averment in the summons that he has performed his obligations in order to render liquid a document which on the face of it is illiquid. The Court will of necessity enquire into the nature*

*of the performance upon which the payment is conditional in order to determine whether the case falls within above-mentioned rule. As I have already stated, it is not the type of transaction but the liquidity of the document which determines whether provisional sentence procedure is appropriate or not.'*

The requirement of issuing of notice is a pre-condition relating payment rather than indebtedness / liability. It does not destroy the liquidity of the document.

In conclusion, Mr Khakhathi's defence in relation to the bond is not valid in law for the following reasons:

1. The requirement for the issuing of notice qualifies as a simple condition. All the plaintiff is required to do is to merely allege in the summons that the simple condition has been fulfilled.
2. Production of proof that a simple condition has been fulfilled is permissible in PS proceedings. It does not constitute extrinsic evidence as alleged by the Mr Khakhathi. In *Rich v Lagerwey* the court indicated that the law enjoins courts to look beyond the form or nature of the document relied on and determine whether it fits the description of a liquid document.
3. In any event, the plaintiff's PS claim is based on the dishonoured cheque. Therefore, the defence raised by Mr Khakhathi are misapplication.

(ii) Cheque

Mr Khakhathi defaulted with his January monthly instalment and is now in arrears for an amount of R500 000, 00. On 26 August 2022 Mr Khakhathi paid his January monthly instalment by issuing cheque in favour of SMS valued at R500 000, 00 and payable by Standard Bank of SA Limited. Later on the cheque bounced on account of insufficient funds in the account and it was referred to the drawer. On the strength of the cheque which was dishonoured, SMS instituted provisional sentence proceedings against Mr Khakhathi. Mr Khakhathi is defending the matter. Mr Khakhathi's defence is that SMS has not issued the notice requesting him to remedy the breach within 7 days as required in terms of the loan agreement. Therefore, his indebtedness to SMS is not unconditional as required for the purposes of provisional sentence. Mr Khakhathi argues further that even if SMS has a proof that they issued the notice such proof would constitute extrinsic evidence which is not permissible in provisional sentence summons proceedings.

In any event, the plaintiff's PS claim is based on the dishonoured cheque. Therefore, the defence raised by Mr Khakhathi are misapplication.

#### QUESTION 4

- 4.1 Describe the procedure that should be followed when a party to the proceedings intend calling an expert witness. [5 Marks]
- 4.2 Draft the necessary notice and the accompanying document(s). [10 Marks]

#### ANSWERING / MARKING GUIDE:

4.1 Students are expected to state the necessary procedural steps in regard to the admissibility of expert evidence

- (a) A party is not entitled to call an expert witness, save with the leave of the court or the consent of all parties to the suit, unless that party has:

- (i) delivered notice of his/her intention to call such expert not less than 15 days before the trial; (R36(9)(a);
- (ii) delivered a summary of such expert's opinions and reasons for such opinions not less than 10 days before the trial. (R36(9)(b)).
- (b) The purposes of the Rule are to prevent a party from being taken by surprise and to enable an exchange of expert reports to take place so that the trial may be shortened.
- (c) The summary should be a brief synopsis and it is not necessary to set out the evidence of the expert fully. The summary should contain sufficient information to remove the element of surprise. (*Coopers v Deutsche Gesellschaft* 1976 (3) SA 352 (A)).
- (d) The test is whether the summary contains a summary of the opinions and reasons.
- (e) The facts upon which an expert's opinions are based have to be proved like any other facts in the case.

(5 marks)

4.2 Students are expected to DRAFT the following:

- (a) the notice of intention to call an expert in terms of Uniform Rule 36(a) and (b);
- (b) Expert Summary

(10 Marks)

[15 Marks]

## QUESTION 5

Critically discuss the principles regarding the introduction of further evidence on appeal and the raising of new points. Substantiate your answer by reference to applicable case law and/or legislation.



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### ANSWERING / MARKING GUIDE:

The following aspects should be canvassed in the discussion:

S 19(b) of the Superior Courts Act 10 of 2013. Since a court of appeal has to consider the correctness of the decision of the court *a quo*, it will, as a general rule, not allow evidence of events subsequent to the judgment under appeal.

Remarks in *Fedsure Life Assurance Co Ltd v Worldwide African Investment Holdings (Pty) Ltd* 2003 (3) SA 268 (W).

The principles set out in *Colman v Dunbar* 1933 AD 141.

A party who takes a matter on appeal is bound by the record of the case in the court *a quo* and cannot raise a new point by relying on a circumstance which does not appear from, or which cannot be deduced from, the record. If an appellant is not satisfied with the record he must apply for leave to amend it. *Road Accident Fund v Mothupi* 2000 (4) SA 38 (SCA).

Two ways in which evidence not adduced before a court of first instance may be admitted in the Constitutional Court. Reference to *Prophet v National Director of Public Prosecutions* 2007 (6) SA 169 (CC).

The Constitutional Court in *Mail and Guardian Media Ltd v Chipu N.O.* 2013 (6) SA 367 (CC) and *Lee v Minister of Correctional Services* 2013 (2) BCLR 129 (CC) refused applications to introduce further evidence.

[20 Marks]

**TOTAL 100 MARKS**

**-END OF EXAMINATION-**



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