

UNIVERSITY OF FORT HARE

FACULTY OF LAW

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**Commercial Law
ACL111**

DEGREE MAIN EXAMINATION

MAY/JUNE 2025

Time: 3 Hours

Subject: ACL 111

Marks: 100

This paper consists of 6 including the cover page.

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Internal Examiners: Ms. P Mkuzo

Internal Moderator: Dr S Bidie

INSTRUCTIONS

- 1. Answer ALL questions.**
- 2. Read the questions carefully.**
- 3. It is in your best interest to write clearly and legibly.**

SECTION A-MULTIPLE CHOICE QUESTIONS

Question 1

1.1 What is the rule of law?

- a) Organ of state
- b) Public policy
- c) Legal rules and moral rules
- d) Law

1.2 The legislation consists of.

- a) Rules of law
- b) Statutes or Acts
- c) Branches of law

1.3 Which one of the following is regarded as a Source of law?

- a) Criminal law
- b) Evidence
- c) Legal cases
- d) Judicial Precedent

1.4 The part of the judgment that binds future court decisions is called?

- a) Judgement
- b) Precedent.
- c) *Stare decisis.*
- d) *Ratio decidendi.*

1.5 What is the highest court in South Africa?

- a) The small claims court.
- b) District Magistrate Court.
- c) The Constitutional Court.
- d) Chiefs' and Headmen's court.

1.6 Which one of the following officers is responsible for drawing up a list of the debtor's property and holding a sale of execution where the items are auctioned to the highest bidder?

- a) Clerk of the court
- b) Sheriff
- c) Registrar
- d) Magistrate

1.7 Mr Singh alleges that Pick n' Pay owes him R10 000, and now he wants to know which court can assist him in suing Pick n Pay.

- a) Regional Court
- b) Small claims court
- c) Special Courts
- d) Supreme Court of Appeal

1.8 Mrs. Kelly wants to sue Mr. Kelly for divorce. Which court should she approach for divorce?

- a) The Special Courts
- b) The High Court
- c) The District Court
- d) The Supreme Court

1.9 The trial procedure is used when the parties are:

- a) When there are differences of opinion as to what happened and who is in the wrong
- b) When one party is under the influence of alcohol
- c) About the 'wrongdoing' of a person, since they need to question each other in court.
- d) About one person taking legal action against another.

1.10 When a case has been heard in the High Court, an appeal may be made to which court(s)?

- a) The Constitutional Court
- b) The Special Court
- c) Supreme Court of Appeal
- d) Income Tax Court

1.11 What does a person's contractual capacity refer to?

- a) The number of contracts that a person is allowed to enter into.
- b) Dispose of any assets that form part of the estate.
- c) Act as a general dealer or manufacturer.
- d) The extent to which that person can enter into a legally binding contract.

1.12 Ally and his friends Lundi and Naiden attend a party together. They become intoxicated and drunk, and Ally asks Lundi if he wants to buy his car. Lundi, who is evenly drunk, agrees. The following day, Ally sees Lundi drive off with his car. Ally approaches you for advice on how to get his car back.

- a) The contract is void as an intoxicated person has no contractual capacity.
- b) The contract is void as an intoxicated person has limited contractual capacity.

1.13 Penny wants to rent a house belonging to Pearlia. Penny tells Pearlia about the terms of her offer. Jullie requested Pearlia to keep the house until the end of the month until she had enough money for a full deposit. They agree that the offer will remain open for one month. Three days before the month ends, Pearlia is approached by Lucia, who also wants to rent the house.

Which ONE of the following statements is CORRECT?

- a) Pearlia may leave the house to Lucia while her offer to Jullie is still open.
- b) Pearlia must keep the offer open for a month until Penny rejects or accepts it.
- c) Pearlia may leave the house with Lucia because no contract forbids her from doing so.
- d) Pearlia may not let the house to Lucia even after the specific period of one month has lapsed.

1.14 Jerry tells Anne, 'When I sell my house, I will offer it to you first.' This is.

- a) A right of first refusal
- b) An offer
- c) An option
- d) Not a valid agreement

1.15 Jade wants to rent his house to Collin, while Collin thinks she is purchasing the house from Wade.

This is an example of an error in ...

- a. *Erro in corpore.*
- b. *Erro in substantia.*
- c. *Error in negotio.*
- d. *Error in persona.*

Total

{15x 2=30 Marks}

SECTION B - SHORT QUESTIONS

Question 1

Linda pulls up at a red traffic light and watches the storm at sea. She glances at a traffic light and sees that it is green, but she does not notice Nandi's car until she smashes into the back of it. Linda thinks the accident was Nandi's fault since he did not drive away. Nandi suffers damages, and Linda refuses to pay her claim.

Discuss the procedure to be followed by Nandi to recover the cost of the damages she suffered from Linda's conduct. (6)

Question 2

When a judgment debtor fails to pay the amount due in terms of the court order. Which steps can a judgment creditor take to enforce the court judgment against the judgment debtor to pay the amount owing? (3)

Question 3

What is a contract? (3)

Question 4

A guardian enters into a contract on behalf of a minor without the minor's knowledge or consent, and the contract turns out to be prejudicial to or burdensome to the minor. What remedy does a minor have to set aside the contract? (5)

Question 5

Describe the difference between an offer and an advertisement or display of goods. (5)

Question 6

Discuss any five requirements of a valid acceptance. (10)

Question 7

For a unilateral mistake to make the contract valid, it must meet specific conditions. Briefly explain those requirements. (6)

Question 8

Zukie checked into a hotel and signed the register without reading the terms and conditions of occupation, which included an exemption from a liability clause. After occupying the hotel, certain belongings were stolen from his room. Zukie sued the hotel for damages, claiming that the terms in the document did not bind him as he had not read them.

Discuss the rules of *the Caveat subscriptor* about the signing of a contract. (5)

Question 9

Can an innocent party claim delictual damages if she suffers due to innocent misrepresentation? Support your answer. (3)

Question 10

Differentiate between *Lex Aquillia* and *Restitutio in integrum*. (6)

Question 11

Explain the requirements that must be met before a contract will be voidable on the grounds of duress. (6)

Question 12

What is required for a proper cession to take place? (6)

Question 13

Briefly explain death as one of the legal rules to terminate a contract. (6)

Total { 70 Marks }

THE END