

Tutorial Letter 102/2/2023

Techniques in trial and litigation

TLI4801

SEMESTER 2

Department of Criminal and Procedural Law

IMPORTANT INFORMATION:

This tutorial letter contains important information about the Assignments for Semester 02 of 2023 for your module.

BAR CODE



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1. INTRODUCTORY REMARKS

The TLI4801 module consists of 2 formative assessments in the form of two compulsory Assignments that must be submitted in preparation for the final summation assessment (non-venue-based assessment) in respect of this module.

PLEASE READ THE INSTRUCTIONS FOUND IN TUTORIAL LETTER 101/3/2023 CAREFULLY BEFORE ANSWERING THE ASSIGNMENT QUESTIONS.

2. INSTRUCTIONS TO ANSWER THE TLI4801 ASSIGNMENTS 01 AND 02

Students are referred to the Tutorial Letter:101/3/2023 found under the official study material page on myModules. The Tutorial letter contains detailed information on the approach that students must adopt to answer the assignment questions.

3. ASSIGNMENTS: GENERAL COMMENTS

The due dates and unique numbers for the assignments are as follows:

FIRST-SEMESTER ASSIGNMENTS: DUE DATES AND UNIQUE ASSIGNMENT		
<i>Assignment description</i>	<i>Due date</i>	<i>Unique number</i>
Assignment 01	10 August 2023	827464
Assignment 02	09 September 2023	705030
Assignment 03 (exam portfolio)	16 October 2023	705316

Your year mark for this module is as follows:

- The two compulsory formative assignments for this module contribute 40% towards your final mark and the examination (by way of portfolio) contributes 60% towards your final mark.
- You will not write a non-venue-based examination for this module, because:
- Your final assessment task is called a portfolio and it is the focal point of this course.
- In your portfolio (Assignment 03), you are expected to reflect on the holistic learning outcomes of the module and provide evidence to demonstrate that you have grasped the concepts through answering specific questions, analysing facts or perhaps drafting documents.
- The purpose of the portfolio (Assignment 03) is to assess whether you have achieved the overall purpose of the module indicated in Tutorial Letter 101.

4. ASSIGNMENTS

4.1 Assignment 01:

Answer the following questions, using proper references. Your entire assignment answer must not exceed *15 pages*.

1. Mr. Joe White, who is a male high school teacher, is married to Cecile White, a nurse, for nine years. The couple reside in Robindale, Johannesburg. They have two minor children, Kevin and Nancy. The Whites' decide to divorce after nine years, citing irreconcilable differences. Mrs. White approaches you for assistance regarding the divorce proceedings.

Answer the following questions. ***Note: In your answers, you may make up facts to supplement the given facts provided that your own rendition does not detract from the core issues.***

- (a) Discuss the type of summons that will be used to institute Mrs White's divorce action. (4)
 - (b) Name and discuss the pleading that will be annexed to the summons. (4)
 - (c) Draft the prayer only. (4)
- [12]**

Refer to chapter 6 of the prescribed textbook.

Please note: The prescribed textbook for this module is Marnewick CG "*Litigation Skills for South African Lawyers*" 4th edition (2019 LexisNexis).

2. Discuss briefly how a legal practitioner may conduct an interview with a client in a litigation matter. (5)

Refer to chapter 1 of the prescribed textbook.

[5]

3. On the morning of 2nd June 2023, a pedestrian Mr. Evans Blue, who is a member of a local hiking club “Fit Walkers”, is doing his morning walk on a public street in Pretoria. Suddenly, he is struck from behind by a speeding taxi driven by Speedy Gonzo, with registration number CN565GP. The accident takes place on Arcadia Street, Pretoria. Mr. Blue is injured as a result of the accident. Mr. Blue sustains the following injuries: a broken right leg, a broken pelvis, a deep cut below his right eye resulting in permanent facial scarring, bruises and abrasions to the right-hand side of his body. His doctors advise him that he will not be able to resume walking for a while as a result of his injuries. His injuries amount to R 850 000,00. Mr. Blue wants to institute a claim against Speedy Gonzo. He approaches you for legal advice.

Answer the following questions. ***Note: In your answers, you may make up facts to supplement the given facts provided that your own rendition does not detract from the core issues.***

(a) Discuss whether the Road Accident Fund can be approached in this matter. (3)

(b) Draft how the parties will be cited or described in the pleadings. (4)
[7]

Refer to Chapter 5 and 6 of the prescribed textbook.

4. Critically discuss the use of ‘practical vocational training’ in practice. [6]

Refer to the Legal Practice Act, 2014.

4.2 Assignment 02 – Semester 2

Answer the following questions using proper references. Your entire assignment answer (questions 1 (a)-(e)) must not exceed 15 pages.

1. Mr Danny Crane is a reputable defence attorney. His client is known as Lady Diamond, a filthy rich South African rock star with her own private plane and real estate all over the world. Lady Diamond was arrested on a charge of malicious injury to property. It is alleged that she hosted a wild party in her suite in a five-star hotel during which damage to the value of R 500 000 was inflicted to hotel property.

As her legal representative, Mr Danny Crane attends a conference at the prosecutor's office. The investigating officer is not invited to the conference. During the conference, Mr Crane makes misleading statements and disclosures "without prejudice".

- (a) Discuss the rules of etiquette regarding the relationships between defence attorneys, prosecutors and investigating officers. (7)
- (b) Suppose Lady Diamond informs Mr Danny Crane that it was her boyfriend who inflicted the damage to the property but that she wants to accept responsibility for her husband's conduct and plead guilty. Discuss the advice Mr Danny Crane will furnish Lady Diamond in this instance. (7)
- (c) Critically discuss the type of information Mr Danny Crane should *avoid* when drafting Lady Diamond's plea explanation. (3)
- (d) Discuss the procedure regarding the assembling of evidence in a criminal trial. (6)
- (e) Suppose Lady Diamond applies to be released on bail. Advise the presiding judicial officer as to the relevant factors to be considered when entertaining Lady Diamond's request for release on bail and, if so, the conditions attached thereto. You must refer to relevant case law in your answer. (7)

Total for Assignment 02: [30]

Source: for questions (a) –(c) refer to Chapter 7 and 14 of the prescribed textbook; for question (d) refer to Chapter 11 of the prescribed textbook and Chapter 19 of J Engelbrecht, *Morris Technique in Litigation* (2010); for question (e) refer to Maharaj, A. *Confident Criminal Litigation* (2010) Chapter 1: Arrest and Bail.

5. DECLARATION OF AUTHENTICITY AND ACCURACY

We enclose a sample declaration for completion. Please attach the signed declaration to your examination answers. We will not mark your examination **UNLESS** you attach the signed declaration to your examination answers.

DECLARATION OF AUTHENTICITY AND ACCURACY

I,... (Full name/s and surname)

Student number:

declare that I am the author of this examination in TLI4801. I further declare that the entire examination is **my own, original, correct work** and **that where** I used other information and resources, I did so in a responsible manner. **I did not plagiarize in any way** and I have **referenced and acknowledged any legal resources** that I have consulted and used to complete this examination. By signing this declaration, I acknowledge that **I am aware of what plagiarism is, and the consequences thereof**. Furthermore, I acknowledge that I am aware of UNISA's policy on plagiarism and understand that if there is evidence of plagiarism within this document, UNISA may take the necessary action.

Date:

Place:.....

Signature:.....

(provide an electronic signature or type or write your name or surname again)

6. CONCLUDING REMARKS

Your results will be released by the Directorate: Student Assessment Administration (DSAA) during the official release period of examination results. We as lecturers are not authorised to release any results in any manner. We wish you success with your future studies.

Regards

Mr B Mashabane
Prof J Le Roux-Bouwer
 Unisa/kr