

UNIVERSITY EXAMINATIONS



October/November 2024

PVL3704

Enrichment Liability and Estoppel

100 Marks

3 Hours (08:15 – 11:15)

Date of Exam 08 October 2024

First examiner: Mr KA Seanego
Second examiner: Prof J Knobel

This paper consists of 9 pages.

This is a closed-book examination

Instructions:

INSTRUCTIONS FOR A TAKE-HOME EXAM ON MYEXAMS

PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE ANSWERING THE EXAMINATION QUESTIONS.

1. The examination question paper counts **100 marks**.
2. It consists of Six (6) questions. Answer **ALL** of the questions.
3. The duration of the examination on the timetable is **4 hours**.
4. In addition to the duration of the examination indicated on the timetable, you are given **30 minutes to FINALISE the uploading of your exam file**. Your exam file must be uploaded via the myExams platform on **08 October 2024 BEFORE 11:45 AM (South African Standard Time)**.

5. This is a **closed-book examination**. While the examination is in progress, you are not allowed to consult another person, or any source in order to assist you to answer any of the questions contained in this question paper. While the examination is in progress, you cannot assist another student in answering any of the questions for this examination.
6. This examination is proctored via the Invigilator App. You are required to **activate (or log in to) the Invigilator App** between **08:00 AM** and **08:45 AM** (South African Standard Time).

The QR code is below:



Exam Access Code d51aa5f2

- 6.1 **Please note:** If a student is found to have been outside the invigilator app for a total of 10 minutes during their examination session, they will be considered to have violated Unisa's examination rules and their marks will be withheld.
- 6.2 **You only have 10 minutes after the scheduled (timetabled) exam time to submit your script on the Invigilator App.**
- 6.3 You will have **48 hours from the date of their examination to upload their invigilator results from the Invigilator App**. Failure to do so will result in students deemed not to have utilised the invigilation or proctoring tools.
7. The uploading of your exam file on the **myExams platform** must be **finalised within 30 minutes of the scheduled (timetabled) end of the exam.**

- 7.1 You are advised to preview your submission (answer script) to ensure legibility and the correct answer script file has been uploaded.
- 7.2 Once the official examination time per the examination timetable has expired, you are provided 30 minutes to submit your answer script. Submissions made after the submission period has lapsed will be rejected per the examination regulations and will not be marked.
- 7.3 **The cover page for your take-home exam must include your name, student number and the module code.**
- 7.4 When ready to submit, open the Take-Home (Assignment) assessment again and click on the Add Submission button.

Submission status

Submission status	No attempt
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	-

Submission comments

▶ Comments (0)

▼
Add submission

- 7.5. Note the file requirements such as:
- File size limit.
 - Number of files that can be submitted.
 - File formats allowed.
- 7.6. Check the acknowledgment checkbox and upload your answers document and then click on the Save changes button.

CONFIDENTIAL

Page 4 of 9

PVL3704

OCT/NOV 2024

File submissions

☒ This submission is my own work, except where I have acknowledged the use of the works of other people.

Maximum file size: 50MB, maximum number of files: 1

Files

A Sample PD...

Accepted file types:

- Document files .doc .docx .epub .gdoc .odt .oth .ott .pdf .rtf
- PDF document .pdf
- Word 2007 document .docx
- Word document .doc

Save changes Cancel

- 7.7. Review your submission information regarding the status and click on your submission file link to check if it's correct.

Submission status

Submission status	Submitted for grading
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	Wednesday, 4 May 2022, 3:05 PM

File submissions

A Sample PDF.pdf 4 May 2022, 3:05 PM

Submission comments

Comments (0)

- 7.8. If you need to resubmit a file, you can click on the Edit Submission button. **Do not click on the Remove submission button.** Note: You will need to delete any existing files by clicking on the file and then on delete.

Submission status

Submission status	Submitted for grading
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	Wednesday, 4 May 2022, 3:05 PM

File submissions

 A Sample PDF.pdf
4 May 2022, 3:05 PM

Submission comments

▶ Comments (0)

▼

Edit submission

Remove submission



- 7.9 Use proper PDF conversion software to create the final file for upload. Free PDF conversion software is available on the Internet.
- 7.10 Add your student number and the module code in the file name. That will assist you to select the correct document to upload during submission.
8. It is preferred that your take-home exam is typed. However, handwritten submissions will also be accepted. If the take-home exam is typed, the maximum length is **12** pages (which includes the cover page and the bibliography). If the take-home exam is handwritten, the maximum length is **16** pages (which includes the cover page and the bibliography).
9. Whether your answers are typed or handwritten, your submission on the myExams platform on Moodle must be made in the form of **one PDF** document. Only the last file uploaded and submitted will be marked.
- 9.1 **The exam answer file that you submit must not be password protected or uploaded as a “read only” file.**
- 9.2 Your examination answer file will not be marked if:
 - 9.2.1 you send your examination answer file via email.
 - 9.2.2 you submit the incorrect examination answer file. A mark of 0% will be awarded.

- 9.2.3 you submit your exam answer file on an unofficial examination.
- 9.2.4 you submit your examination answer file in the incorrect file format.
- 9.2.5 you submit a password-protected document.
- 9.2.6 you submit your examination answer file late.
- 9.2.7 you submit your answer file from a registered student account that is not your own.
- 9.3 The mark awarded for an illegible examination answer file submission will be your final mark. You will not be allowed to resubmit after the scheduled closing date and time of the exam.
- 9.4 Listening to audio (music) and utilising audio-to-text software has been strictly prohibited during your examination session, unless use of the software is related to a student's assistive device which has been declared. Listening to music, utilising such software and/or failing to declare the software is a transgression of Unisa's examination rules and the student's marks will be withheld.
- 10. If your answers are typed, ensure that the following requirements are adhered to. Items 11.3-11.6 applies to written assignments as well.
- 10.1 The text must be typed in Arial font, size 12 with single line spacing within the paragraph, and double line spacing after the paragraph.
- 10.2 The text must be justified.
- 10.3 All of the pages must be numbered in the right hand corner at the bottom of the page.
- 10.4 All margins must be 2.5cm, but the left margin must be 3cm.
- 11.5 South African English and not American English should be used. For example, the correct spelling is "Labour" and not "Labor".
- 10.6 Do not use abbreviations or SMS language.
- 10.7 All quotes that are two lines long (or less), must form part of the main text, be written in italics, and be bracketed by quotation marks. Where a quotation is longer than two lines, it must be typed in a separate paragraph in italics in size 11 font and must be indented by 1 cm. No quotation marks are required when the quotations stand alone. Use quotations very sparingly. In this take-home exam, a maximum of 5% of the text may be quoted.
- 11. The arguments that you make must be logical, well-structured and substantiated by all of the relevant legal principles. Use the time given wisely.
- 11.1 Ensure that you give reasons for each answer. Substantiate your answers by referring to ALL of the relevant authorities, e.g. sections from relevant legislation and/or court cases in the text.

- 11.2 A number of students lose marks because they do not approach problem-type questions correctly. When answering such questions, it is important to first clarify for yourself the area of work where the answer must be sought. Once you have done this, set out the relevant legal principles. Deal only with those principles that relate to the given facts. Next, apply these principles to the facts. This is where most of the students lose marks - they set out the law in some detail, but then do not illustrate how it applies to the factual situation they have been asked to solve. Finally, state your conclusion.
12. You must complete the online declaration of own work when submitting.
- 12.1 By ticking the Honesty Declaration, you confirm that you have read (i) the University's [Policy on Copyright Infringement and Plagiarism](#) and the [Student Disciplinary Code](#), which are both available on myUnisa: www.unisa.ac.za/unisarules, and (ii) the information relating to student values and plagiarism that is found at <https://www.unisa.ac.za/sites/myunisa/default/Study-@-Unisa/Student-values-and-rules>.
- 12.2 Students suspected of dishonest conduct during the examinations will be subjected to disciplinary processes. Students may not communicate with any other person or request assistance from any other person during their examinations. The use of Telegram, WhatsApp or any other instant messaging services with any other person (except when asking for technical assistance via official channels of the SCSC or the Invigilator WhatsApp line) are strictly prohibited. Plagiarism is a violation of academic integrity and students who plagiarise, copy from published works or use Artificial Intelligence Software (eg ChatGPT) or online sources (eg course material. For open book exams, change to 'other than the course material') will be in violation of the Policy on Academic Integrity and the Student Disciplinary Code and may be referred to a disciplinary hearing. Unisa has a zero tolerance for plagiarism and/or any other forms of academic dishonesty.
- 12.3 Unless a student is exempted because of disability or incarceration, students who have not utilised invigilation or proctoring tools will be deemed to have transgressed Unisa's examination rules and will have their marks withheld.

PLEASE NOTE:

If you experience challenges with the Invigilator app, please **send a WhatsApp message** to the technical helpdesk on **073 505 8273**. **Do not phone/call the technical helpdesk. Do not contact the lecturers.**

For all other exam-related challenges, you may contact the SCSC on 080 000 1870 or e-mail Examenquiries@unisa.ac.za or refer to [Get-Help](#) for the list of additional contact numbers.

QUESTION 1

A truck that delivered your new neighbour's pavement bricks is parked in the driveway in front of your gate. You request the driver to move the truck so that you can pull your car out. He refuses, stating that he will only move the truck once he has been reimbursed by your neighbour for the transportation of the bricks. You try to get hold of your new neighbour without any success. As you urgently need to drive to town to open your shop for the day's business, you write a check for the amount that the driver mentioned and hand it to him. You now wish to claim this amount from your neighbour.

Discuss the nature of the claim in the current instance, including the remedy that is possibly available to you and what you can claim with this remedy. Refer comprehensively to relevant case law in your answer. (15)

Question 2

Briefly discuss the field of application and the requirements of the *condictio sine causa specialis*. (10)

QUESTION 3

A has died, apparently leaving an estate worth R2 million net after all the debts had been lodged and settled. In his will he has left all his assets to B and C in equal shares. After the winding up of the estate by attorneys KLM, B and C each received their legacy of R1 million. It later comes to light that X, a creditor of A, had failed to submit a claim against the deceased estate for an amount of R3 million. Creditors D (who was owed R800.000), E (who was owed R200.000) and F (who was owed R500.000) were paid in full. Advise X whether it can claim the money from KLM, or from B and C, or from D, E and F. Discuss the nature of the claim and discuss when such a claim would become prescribed. (20)

QUESTION 4

A has concluded a contract with B in terms of which B must paint the exterior of A's house for R20.000 while A is on holiday. However, due to a mix up in addresses (not caused by A) B painted C's house instead, who was also on holiday during this period. C's house also seemed to need a fresh coat of paint.

Can B claim anything from A or C? If not, explain fully. If so, explain in detail which action B can use, how the claim should be quantified and any defences that A or C may raise against the claim by B. (20)

QUESTION 5

Discuss fully misrepresentation as a requirement for estoppel, including how it will be determined if the estoppel assertor has indeed been misled by the misrepresentation of the estoppel denier. (20)

QUESTION 6

Provide a detailed discussion on whether the defence of estoppel can succeed against a company if a director of that company acted without the necessary legal authorisation from the board of directors, but made it seem as if he had indeed received authorisation. Refer to relevant case law. (15)

TOTAL PAPER:

[100]