

PROKUREURSEKSAMEN

DEEL 1 HOFPROSEDURES

15 OKTOBER 2018

09:00-12:15

Totaal:[100]

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van 3 uur volg dan.

1. Kandidate moet al die vrae beantwoord.
2. Kandidate moet daarop let dat punte vir goeie opstelwerk toegeken word.
3. Waar nodig, moet kandidate hulle eie feite versin.
4. Skryf asseblief slegs in pen op die regterkantse bladsye.
5. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling in hierdie deel ingeroep as 50% of meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel druip.

ATTORNEYS' EXAMINATION

PART 1 COURT PROCEDURES

15 OCTOBER 2018

09:00-12:15

Total:[100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 3 hours then follows.

1. Candidates must answer all the questions.
2. Candidates must remember that marks are awarded for good draftsmanship.
3. Candidates must invent their own facts wherever necessary.
4. Please write only in pen on the right-hand pages.
5. Except if a special reason exists, a candidate will not be required to do an oral in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

VRAAG 1 [15]

U word gekonsulteer deur Mev. Mildred Kunene, wat u soos volg meedeel:

Op 15 Februarie 2018 het haar 6 jarige kleinseun, Wilfred Kunene, agter op 'n oop bak van 'n Toyota Hilux gereis. Die bestuurder van die Toyota het beheer oor die voertuig verloor op 'n skerp draai, sodat die voertuig erg geswaai het. As gevolg daarvan is Wilfred van die voertuig geslinger en het hy ernstige beserings opgedoen. Nog die eienaar nog die bestuurder van die Toyota se identiteit is bekend.

Wilfred bly by sy ouma aangesien beide sy ouers oorlede is, en sy het hom onderhou met die hulp van 'n kindertoelaag wat sy namens hom ontvang. Mev Kunene het 'n eis namens Wilfred direk by die Padongelukfonds ingedien op 10 Mei 2018. Sy is ongelukkig met die POF se skikkingsaanbod vandag ten opsigte van meriete tot die effek dat sy eis geskik word op 'n 80/20% verdeling, m.a.w. die POF wil 20% aftrek van Wilfred se eis aangesien hy nalatig was deur agter op die oop bak van die voertuig te reis. Sy gee opdrag aan u om dagvaarding uit te reik.

Beantwoord die volgende vrae met verwysing na die bogenoemde feitelike inligting:

- 1.1 Kan dagvaarding beteken word op die Padongelukfonds met inagneming van die feit dat die eis nie gerepudieer is nie? Motiveer u antwoord. (2)
- 1.2 Het Mev. Kunene die nodige *locus standi* om namens Wilfred op te tree? Motiveer u antwoord volledig. (2)
- 1.3 Is die Padongelukfonds korrek om 'n 20% verdeling toe te pas op Wilfred se eis? Motiveer u antwoord. (3)
- 1.4 Hoe sal u u self op rekord plaas by die Padongelukfonds met verwysing na Wilfred se eis? (2)

QUESTION 1 [15]

You are consulted by Mrs Mildred Kunene, who advises you as follows:

On the 15th of February 2018, her 6 year old grandson, Wilfred Kunene was travelling in the bin of a Toyota Hilux. The driver of the Toyota lost control of the vehicle on a sharp bend, causing the vehicle to swerve violently. As a result, Wilfred was thrown out of the vehicle and suffered serious injuries. Neither the owner nor the driver of the Toyota has been identified.

Wilfred resides with his grandmother as both his parents are deceased and she has been supporting him with the aid of the child support grant she receives on his behalf. Mrs Kunene lodged a claim on Wilfred's behalf directly with the Road Accident Fund on the 10th of May 2018. She is unhappy with the RAF's offer today to settle the merits of Wilfred's claim on the basis of an 80/20% apportionment (i.e.) the RAF want to deduct 20% from Wilfred's claim because he was negligent in travelling in the bin of the vehicle. She now instructs you to issue summons against the RAF.

Answer the following questions with reference to the above factual information:

- 1.1 Can summons be served upon the Road Accident Fund bearing in mind that the claim has not been repudiated? Motivate your answer. (2)
- 1.2 Does Mrs Kunene have the necessary *locus standi* to act on Wilfred's behalf? Motivate your answer fully. (2)
- 1.3 Is the Road Accident Fund correct in applying a 20% apportionment to Wilfred's claim? Motivate your answer. (3)
- 1.4 How would you place yourself on record with the Road Accident Fund in respect of Wilfred's claim? (2)

1.5 Teen wanneer moet dagvaarding beteken word op die POF? Motiveer u antwoord. (2)

1.5 By when must summons be served upon the RAF? Motivate your answer. (2)

1.6 Veronderstel dat na die litigasie u 'n skikkingsaanbod ontvang, maardie POF het die waarde van die kindertoelaag wat Mev. Kunene oor die jare ontvang het, afgetrek. Hoe sal u Mev. Kunene in hierdie opsig adviseer? (2)

1.6 Assume that after the matter is litigated you receive an offer of settlement but the RAF has deducted the value of the child support grant Mrs Kunene has received over the years. What advice would you give Mrs Kunene in this regard? (2)

1.7 AanvaardiesaakisgefinaliseerendiePOF betaal die bedrag van R5 000 000-00. Mev. Kunene versoek dat die fondse aanhaarpersoonlik uitbetaalword. Welke advies sal u vir haar gee? (2)

1.7 Assume that the matter is finalised and the RAF makes payment in the sum of R 5 000 000-00. Mrs Kunene requests that the funds be paid to her personally. What advice would you give? (2)

VRAAG 2 [5]

QUESTION 2 [5]

U word gekonsulteer deur Mnr. A. Hy deel u mee dat hy betrokke was in 'n motorongeluk op 01 Maart 2015. Hy was 'n passasier in 'n voertuig waarvan die bestuurder beheer verloor het en omgeslaan het. Aanvaardat die bestuurder van die voertuig waarin die eiser 'n passasier was, nalatig was in die veroorsaking van die ongeluk. Alhoewel Mnr. A 'n passasier was in die gemelde voertuig, was hy die eienaar van die voertuig. As gevolg van die beserings opgedoen in die ongeluk is Mnr. A verlam en kan hy nie meer werk nie. Hy het dus skade gely in die vorm van reeds gelede mediese- en hospitaalluitgawes, toekomstige mediese uitgawes, toekomstige verlies aan verdienste en nie-materiële skade (algemene skade).

You are consulted by Mr A. He informs you that he was involved in a motor vehicle accident on 01 March 2015. He was a passenger in a vehicle of which the driver lost control and overturned. It can be accepted that the driver of the vehicle in which the plaintiff was a passenger, was negligent in causing the accident. Although Mr. A. was a passenger in the said vehicle, he was the owner of the vehicle. Due to the injuries sustained in the accident Mr. A. has been paralysed and is no longer able to work. He therefore suffered damages in the form of past medical and hospital expenses, future medical expenses, future loss of earnings and non-pecuniary damages (general damages).

Voorts is sy voertuig afgeskryf (nie ekonomies herstelbaar nie), sy kontaklense is vernietig in die ongeluk en sy selfoon is onherstelbaar beskadig.

Furthermore, his vehicle was written off (was not economically repairable), his contact lenses were destroyed in the accident and his cell phone was damaged beyond repair.

Sy instruksies is om al die skade te verhaal wat hy gely het. Van wie sal die skade wat hy gely het soos hierbo vermeld, verhaal word? Motiveer u antwoord.

His instructions are to recover all the damages which he suffered. From whom will the damages which he suffered, as mentioned above, be recovered? Motivate your answer.

VRAAG 3 [5]

John was die bestuurder van 'n motorvoertuig wat betrokke was in 'n kop-aan-kop botsing met 'n vrugmotor. Dit word bevind dat John en die vrugmotorbestuurder elk 50% verantwoordelik was.

- 3.1 Watter effek sal dit hê op die kwantum van John se eis teen die Padongeluksfonds? (1)
- 3.2 Aanvaar dat die hof bevind dat John die uitsluitlike oorsaak van die botsing was. Watter effek sal dit hê ten opsigte van John se eis? (1)
- 3.3 Aanvaar dat John 'n passasier was in 'n voertuig wat bestuur was deur 'n vriend, maar dat beide bestuurders 50% verantwoordelik was. Watter effek sal dit hê ten opsigte van John se eis? Motiveer u antwoord. (3)

VRAAG 4 [9]

- 4.1 Wat moet 'n party doen indien hy/sy van voorneme is om sy/haar pleitstukke te wysig? (1)
- 4.2 Binne welke periode en hoe kan die opponerende party beswaar aanteken teen die voorgename wysiging? (1)
- 4.3 Wat moet die party wat wil wysig doen (indien enigiets) indien daargeen beswaar teen die wysiging is nie? (1)
- 4.4 Wat is die teenparty se regte (indien enige) indien 'n wysiging aangebring is? (4)
- 4.5 Welke party is normaalweg aanspreeklik vir die koste veroorsaak deur 'n wysiging? (1)
- 4.6 Tot op welke tydstip in 'n geding mag 'n wysiging tot die pleitstukke aangebring word? (1)

QUESTION 3 [5]

John is the driver of a motor vehicle that is involved in a head-on collision with a truck. It has been established that both John and the driver of the truck were 50% to blame.

- 3.1 What effect will this have on the quantum of John's claim against the Road Accident Fund? (1)
- 3.2 Assume that the court concludes that John was the sole cause of the collision. What effect will this have on John's claim? (1)
- 3.3 Assume that John was a passenger in the motor vehicle driven by a friend, but that both drivers were 50% to blame. What effect will this have on John's claim? Motivate your answer. (3)

QUESTION 4 [9]

- 4.1 What should a party do if he/she desires to amend his/her pleading? (1)
- 4.2 Within what period of time and how may the opposing party object to the proposed amendment? (1)
- 4.3 What should the amending party do (if anything) if there is no objection to the amendment? (1)
- 4.4 What rights does the opposing party have (if any) once an amendment has been effected? (4)
- 4.5 Who is usually liable for the costs occasioned by the amendment? (1)
- 4.6 Until what stage in proceedings may an amendment to pleadings be effected/made? (1)

VRAAG 5 [6]

Op 15 November 2017 het die eiser, 'n meerderjarige man en Peregrinus, aksie teen verweerder ingestel vir skadevergoeding as gevolg van die eiser se beweerde onregmatige en onwettige arrestasie en aanhouding deur werknemers van die verweerder. U ontvang opdrag van die verweerder om die aksie te verdedig en om sekuriteit vir koste aan te vra in terme van Reël 47.

Met gebruik van denkbeeldige feite, stel die dokument op kragtens Reël 47 (1) van die Eenvormige Hofreëls om u kliënt se reg om sekuriteit vir koste te eis aan te dui. Dui aan aan wie die dokument gerig word.

VRAAG 6 [10]

6.1 Reël 18 van die reëls van die Hoë Hof het betrekking op pleitstukke in die algemeen. Met betrekking tot aksies waarin die eiser dagvaar vir skadevergoeding vir persoonlike beserings, bevat Reël 18 (10) sekere spesifieke vereistes waaraan die Besonderhede van Vordering moet voldoen. Lys hierdie vereistes. (8)

6.2 Watter prosedurale remedie anders as 'n eksepsie tot die Besonderhede van Vordering het die Verweerder indien die Eiserversuim omtrent die vereistes van Reël 18 (10) te voldoen? (2)

VRAAG 7 [10]

Gedurende die Fees Must Fall protes is James Aktivist, 'n studenteleier by die Universiteit van Wes-Kaapland, gearresteer vir openbare geweld. Hy is 'n voltydse student vir die afgelope 5 jaar en woonagtig in die Chris Hani Hostel op die kampus. Dit word beweer dat hy met andere vergader het met die opset om die openbare rus en vrede op gewelddadige wyse te versteur of om inbreuk te maak op die regte van ander gedurende die protes-aksie.

QUESTION 5 [6]

On 15 November 2017 plaintiff, an adult male, a peregrinus instituted an action against defendant for damages suffered by him in consequence of his alleged wrongful and unlawful arrest and detention by employees of the defendant. You receive instructions from Defendant to defend the action and to call for security for costs in terms of Rule 47.

Using imaginary facts, draft the necessary document in terms of Rule 47 (1) of the Uniform Rules of Court, stating your client's entitlement to claim such security. State to whom the document must be addressed.

QUESTION 6 [10]

6.1 Rule 18 of Rules of the High Court relates to pleadings generally. With regard to matters in which the Plaintiff sues for damages for personal injuries, Rule 18 (10) contains certain specific requirements that must be complied with in the Particulars of Claim. List these requirements. (8)

6.2 What procedural remedy other than the noting of an exception to the Particulars of Claim does the Defendant have should the Plaintiff fail to comply with the said requirements in terms of Rule 18 (10)? (2)

QUESTION 7 [10]

During the Fees Must Fall protest James Activist, a student leader at the University of Western Cape, is arrested for public violence. He has been a fulltime student for 5 years and resident at Chris Hani Hostel which is on the University premises. It is alleged that he unlawfully assembled with others with the common intent to forcibly disturb the public peace or security or to invade the rights of others during the protest on the campus.

U ontvang 'n telefoonoproep om bystand en advies van hom omdat hy aan heftige ondervraging in verband met 'n misdaad onderwerp word vanweë die feit dat die polisie glo dat hy die misdryf gepleeg het.

You receive a telephone call from him in which he calls on your assistance and advice because he is being subjected to strenuous questioning relating to the alleged offence which the police believe he has committed.

7.1 Is u kliënt verplig om enige vrae van die Polisie in verband met die meriete van die saak, te beantwoord? Motiveer u antwoord. (2)

7.1 Is your client obliged to answer any questions of the police relating to the merits of the matter? Motivate your answer. (2)

7.2 Watter inligting is hy verplig om ingevolge die Strafproses Wet aan die Polisie te verskaf? (2)

7.2 What information is your client obliged to furnish to the police, in terms of the Criminal Procedure Act? (2)

7.3 Mag hy weier om ondervra te word? (2)

7.3 Is he entitled to refuse to be questioned? (2)

7.4 Indien hy weier om vrae te beantwoord, kan sy weiering by enige daaropvolgende verhoorteen hom gehou word? Motiveer u antwoord. (2)

7.4 If he refuses to answer questions can his refusal be held against him at any subsequent trial? Motivate your answer. (2)

7.5 Is daar omstandighede waaronder u wel kliënt sal adviseer om 'n verklaring af te lê? Indien wel, motiveer u antwoord en verskaf redes daarvoor. (2)

7.5 Are there circumstances in which you will advise your client to make a statement? If so, motivate your answer and set out the reasons therefore. (2)

VRAAG 8 [5]

QUESTION 8 [5]

Gedurende die intense ondervraging deur die speurders besluit hy teësinning om met 'n landdros te praat en lê hy 'n skriftelike verklaring voor die landdros af. In die daaropvolgende verhoor beoog die staatsaanklaer om bogenoemde geskrewe verklaring as getuienis in te dien, as bewys dat u kliënt die misdaad gepleeg het. Waarna sal u in die verklaring kyk om uself tevrede te stel dat die verklaring inderdaad as getuienis toegelaat kan word?

During the intense interrogation by the detectives he reluctantly agrees to speak to a magistrate and makes a written statement to the magistrate. At the subsequent trial the prosecutor wishes to submit as evidence the afore mentioned written statement to prove that your client committed the crime. What would you look for in the statement to satisfy yourself that it can indeed be submitted as evidence?

VRAAG 9 [3]

QUESTION 9 [3]

Die staatsaanklaer lei die getuienis van die polisie-man wat die arrestasie uitgevoer het. Die beampte is nie instaat om u kliënt te identifiseer nie en weerspreek hom op wesenlike aspekte van die getuienis.

During the trial the prosecutor leads the evidence of the arresting officer. The officer is unable to recognize your client and contradicts himself on many material aspects of the evidence.

Die aanklaer kan ook nie enige verdere getuies en getuienis aanbied nie en besluit dus om die Staat se saak te sluit. Watter opsies is aan u kliënt beskikbaar om sy verdediging voort te sit?

VRAAG 10 [7]

Tenspyte van u beste pogings word James Aktivis (in vraag 7) deur Landdros Goliath, in die Bellville Streekhof, tot 6 jaar gevonniss, waarvan 3 jaar opgeskort is. Hy gee u instruksies om teen die vonnis te appelleer. Stel die kennisgewing van aansoek om verlof tot appèl op. Sluit die kopskrifte in.

VRAAG 11 [10]

Die dagvaarding hieronder bevat 'n aantal foute. Identifiseer tien van hierdie foute en motiveer kortliks u antwoorde. U kan aanvaar dat die dagvaarding reg geteken en uitgereik was.

In die Landdroshof vir die Distrik van Johannesburg

Gehou te Johannesburg –

Saaknommer 111/2018

In die saak tussen

Peter Jones	Eiser
Smith (Edms) Bepk	Eerste Verweerder
John Smith	Tweede Verweerder

BESONDERHEDE VAN VORDERING

1. Die Eiser is Peter Jones, 'n minderjarige student woonagtig te Kerkstraat 12, Johannesburg.
2. Die Eerste Verweerder is Smith (Edms) Bpk, 'n maatskappy te 12 East straat, Durban.
3. Die Tweede Verweerder is John Smith, 'n volwasse man, wat werksaam is by Smith (Edms) Bpk te 12 East Straat, Durban, as 'n drywer.

The prosecutor is also unable to produce any other witnesses and evidence and therefore decides to close the State's case. What options are available to your client in the further conduct of his defence?

QUESTION 10 [7]

Despite your best efforts James Activist (in question 7) is sentenced by Magistrate Goliath, in the Bellville Regional Court, to 6 years imprisonment of which 3 years are suspended. He instructs you to appeal against the sentence. Draw the notice of application for leave to appeal and include the headings.

QUESTION 11 [10]

The Summons hereunder contains a number of mistakes. Identify ten of these and briefly motivate your answer. You may accept that the Summons was duly signed and issued.

In the Magistrates Court for the District of Johannesburg

held at Johannesburg –

Case Number 111/2018

In the matter between

Peter Jones	Plaintiff
Smith (Pty) Limited	First Defendant
John Smith	Second Defendant

PARTICULARS OF CLAIM

1. The Plaintiff is Peter Jones, a minor student who resides at 12 Church Street, Johannesburg.
2. The First Defendant is Smith (Pty) Ltd, a company of 12 East Street, Durban.
3. The Second Defendant is John Smith, an adult male, employed by Smith (Pty) Ltd as a driver of 12 East Street, Durban.

4. Op die 18de Februarie 2018 en te Langstraat Durban het 'n botsing plaasgevind tussen 'n motorvoertuig, ND2 wat deur die Eiser bestuur was en 'n motorvoertuig ND4 wat ten tye van die botsing deur die Tweede Verweerder bestuur was.
5. Die uitsluitlike oorsaak van die ongeluk was as gevolg van die nalatige bestuur van die Tweede Verweerder.
6. Die Eiser se voertuig is as gevolg van die ongeluk beskadig. Die redelike koste van die herstelwerk is R220 000.00.
7. Tenspyte van skriftelike aanmaning versuim die Verweerders om die genoemde bedrag te betaal. 'n Afskrif van die aanmaning is aangeheg as aanhangsel A.

Derhalwe versoek die Eiser vonnis teen die Verweerders vir:

1. Betaling van die bedrag van R220 000.00.
2. Rente daarop teen die koers van 15% per jaar vanaf die datum van die ongeluk tot op datum van betaling.
3. Koste van die geding op 'n prokureur en kliënt skaal.

Gedateerte Johannesburg op _____ dag van _____ 2018.

Marais & Kie
Eiser se Prokureur
12 Rissik Straat
Johannesburg

VRAAG 12 [7]

U kliënt nader u aangaande die finansiële probleme van AAA Beslote Korporasie. Watter hofprosedures kan haar van hulp wees in die volgende gevalle?

4. On the 18th February 2018 at Long Street, Durban a collision occurred between motor vehicle ND2 driven by the Plaintiff and motor vehicle ND4 which at the time of the collision was driven by the Second Defendant.
5. The sole cause of the collision was due to the negligent driving of the Second Defendant.
6. As a result of the collision the Plaintiff's vehicle was damaged and the reasonable costs of repair are R220 000.00.
7. Despite written demand the Defendants have failed to pay the said amount. A copy of the demand is annexed hereto marked A.

Wherefore the Plaintiff prays for judgment against the Defendants for:

1. Payment of the sum of R220 000.00
2. Interest thereon at the rate of 15% per year from the date of the collision to date of payment.
3. Costs of suit on the scale between the attorney and client.

Dated at Johannesburg this _____ day of _____ 2018.

Marais & Company
Plaintiffs' Attorneys
12 Rissik Street
Johannesburg

QUESTION 12 [7]

Your client approaches you regarding the financial problems of AAA Close Corporation. Which Court proceedings could be of assistance to her under the following circumstances?

12.1 Vonnis is toegestaan en sy vermoed dat die Beslote Korporasie bates besit waarop beslaggelê kan word. Sy het egter geen inligting om haar vermoedens te bevestig nie. Sy wil dit graag bevestig voor sy die lasbrief laat uitreik. (1)

12.1 You have obtained a Judgment and she suspects that the close corporation owns assets that could be attached but she does not have any information to confirm her suspicion. She wants to establish this before issuing a warrant of execution. (1)

12.2 Vonnis is toegestaan in die Landdroshof en die Beslote Korporasie het 'n wesentlike bankbalans. (1)

12.2 She has obtained judgment in the Magistrate's Court and the Close Corporation has a substantial bank balance. (1)

12.3 Sy is 'n krediteur van die Beslote Korporasie en het vonnis bekom in die Landdroshof en het probeer beslaglê, maar die relaas van die balju bevestig dat daar onvoldoende bates is. Sy vrees dat die lede van die Beslote Korporasie die bestaande bates sal verkoop en die geld in hul sakke sal steek. (1)

12.3 She is a creditor of the Close Corporation and has obtained judgment in the Magistrate's Court and attempted execution but has received a return of service which indicates that the debtor has insufficient assets. She fears that the members of the close corporation might sell the remaining assets and pocket the money. (1)

12.4 Sy is 'n lid van die Beslote Korporasie wat 'n aansoek om likwidasië teenstaan wat ingestel is deur 'n krediteure bank. Sy glo dat die Beslote Korporasie homself uit sy finansiële posisie kan red deur handel te dryf. (1)

12.4 She is a member of the Close Corporation defending an application for liquidation by a creditor bank and she believes that the close corporation can trade out of its precarious financial position. (1)

12.5 Sy het 'n vonnis teen die Beslote Korporasie verkry, maar 'n lid van die Beslote Korporasie beweer dat die bates waarop beslaggelê is aan hom persoonlik behoort. Sy glo hom nie. (1)

12.5 She has obtained judgment against the Close Corporation and has attached assets on the premises from which the Close Corporation trades, but a member of the Close Corporation has claimed that the attached assets belong to him personally. She does not believe him. (1)

12.6 Sy het gedagvaar vir goedere verkoop en geleweren die Beslote Korporasie verdedig. Sy is van mening dat dit slegs 'n verdragings-taktiek is. (1)

12.6 She has issued Summons for goods sold and delivered and the Close Corporation is defending the summons. She believes this is just a stalling tactic. (1)

12.7 Sy is 'n minderjarige weeskind sonder voogde wat haar kan bystaan in haar aksie om namens haar 'n eis in te stel teen die Beslote Korporasie. (1)

12.7 She is a minor orphan, with no guardians to assist her, in an action to claim against the Close Corporation on her behalf. (1)

VRAAG 13 [4]

QUESTION 13 [4]

ASF Bank het 'n krediet ooreenkoms gesluit met Mr. X. ASF Bank het al hul regte, titel en belange in

ASF Bank concluded a credit agreement with Mr. X. ASF Bank ceded the rights, title and

die kredietooreenkoms aan BBB (Edms) Bpk gesedeer. Mr. X raak agterstallig met sy maandelikse paaiemente nadat die sessie plaasgevind het en u het opdrag om 'n dagvaarding uit te reik.

13.1 Watis die eerste stap om te doen voordat die dagvaarding uitgereik word? (1)

13.2 Wie sal die Eiser wees wat gesiteword word in die dagvaarding en waarom? (1)

13.3 Gebruik dieselfde feite as hierbo. Mnr. X het egter namens CCC Bpk as borg getekene nafstandgedoen van die voordele van uitwinning. Wiesaldieverweerder(s) in die dagvaarding wees? (2)

VRAAG 14 [4]

Die eiser stel 'n aksie vir laster in die Landdroshof in. Die verweerder versuim om verskyning aan te teken. Watter dokumente moet die Eiser liaseer om die aansoek om Verstekvonnis te ondersteun?

interest to the credit agreement to BBB (Pty) Ltd. Mr. X defaults on his monthly repayments after the cession agreement was concluded and you have instructions to issue a summons.

13.1 What is the first step to take prior to the issuing of the summons? (1)

13.2 Who would be the plaintiff cited in the summons and why? (1)

13.3 Assume the same facts as above. However, Mr. X on behalf of CCC Ltd signed surety and waived the benefit of excussion. Who would be the defendant(s) in the summons? (2)

QUESTION 14 [4]

The Plaintiff institutes action in the Magistrates court for defamation. The Defendant fails to enter an Appearance to Defend. What documents must the Plaintiff file in support of a request for default Judgement?

- DIE EINDE -

- THE END -