

**SUBMISSION BY MONDAY, 28 MARCH, 17:00**

<b>SURNAME:</b>	Pillay
<b>NAME:</b>	Deshlan
<b>STUDENT NUMBER:</b>	21481084
<b>GROUP:</b>	1

**Instructions:**

- Please answer the following questions by means of any of the following methods:
  - Fill in your answers on this document (electronically) and save in Word/PDF;
  - Fill in your answers on a separate piece of paper (by hand) and scan it in/take a photo.
- Please submit it through attaching your attempt to the link on the BER 210 ClickUp page, under the content area “Tutorial Submission Links”, through clicking/tapping on the link “TUTORIAL 1: SUBMISSION LINK”.
- Then attach your attempt by clicking/tapping on “Browse Local Files”:

## ASSIGNMENT SUBMISSION

Text Submission

Write Submission

Attach Files

Browse Local Files

Browse Content Collection

Browse Cloud Service

- When finished click on “Submit”:

*When finished, make sure to click **Submit**.**Optionally, click **Save as Draft** to save changes and continue working later, or click **Cancel** to quit without saving changes. You are previewing the assignment - your submission will not be saved.*

Cancel

Save Draft

**Submit**

**SUBMISSION BY MONDAY, 28 MARCH, 17:00****Questions:****Question 1**

Joey and Dianne were married out of community of property with the accrual system. At the time of concluding the marriage, Dianne's estate was worth R2mil and Joe's estate was valued at R0. During the next 10 years Dianne attended to the children born out of the marriage and assisted Joey with the administration of his cell phone business. At the date of divorce, Joey's estate was valued at R5mil, but Dianne's estate was still R2mil. Calculate the accrual. **(4 marks)**

- a. Thabo:
- b. Siphon:
- c. Portia:

**Answer:**

R1mil

**Question 2:**

Catherine and Dianne agree that Dianne will sell certain unpolished diamonds for R4mil to Catherine.

2.1 Is the contract valid? Motivate your answer. **(4 marks)**

**Answer:**

No, the contract is not valid. Legality and lawfulness is one of the requirements for a valid and binding contract. Since the selling of unpolished diamonds is illegal, the contract involves an act that is prohibited by the law and is therefore rendered invalid.

2.2 If Dianne had already delivered the diamonds to Catherine and Catherine cannot pay, what remedies would Dianne have? **(4 marks)**

**Answer:**

Due to the contract being invalid, no party is allowed to institute legal action. Dianne can however reclaim her performance on the grounds of unjust enrichment. Courts will not intervene due to the illegality of the contract.

**SUBMISSION BY MONDAY, 28 MARCH, 17:00****Question 3:**

Beatrice (B) works at a company Top Secret (TS), where various important vaccines are formulated. These vaccines include the new malaria vaccine, Covid vaccines and she is also busy with designing a vaccine that will be effective against certain cancers. Only Betty has the brains to formulate this vaccine. B's contract includes a restraint of trade clause, whereas she is not allowed to compete with TS by working in a similar capacity (that of vaccine formulation) within the borders of South Africa for a period of 5 years.

Discuss whether this restraint of trade is valid and enforceable by considering all the factors a court will take into consideration. **(10 marks)**

**Answer:**

A restraint of trade clause is a standard contractual clause in a service agreement entered into between the employer and employee (herein also referred to as "the parties") for the benefit of the employer. The purpose of a restraint of trade is to protect confidential information, company interests and trade secrets of the business operations of the employer. This is done by limiting an employee for a certain period of time to, directly or indirectly, apply, be engaged in or have any interest in an opposition company within a certain geographical area. A restraint of trade is therefore in general only enforceable if the information used is confidential and protectable. Such information could be any documentation, processes, contacts, cost formulas, etc. obtained by a former employee in the course of his/her employment as a result of the employer's spending on labour, skill and experience (not known or not to be found in the public domain), which any competitive company may immediately receive the benefit from without spending their own money and time, using their efforts or skills.

**Question 4:**

Steve, who is 17 years of age and his friend Lily, who is 21 years of age bought a dining room set for R12 000 from Betty who is a supplier of household furniture. Steve

**SUBMISSION BY MONDAY, 28 MARCH, 17:00**

told Betty that he is 19 but Betty never asked for his Identity Document. Explain the legal status of the agreement. **(6 marks)**

**Answer:**

Minor pretends to be a major- due to Steve being under the age of 18, he is not attained majority, the agreement was made without the consent of a major on his behalf and has not been ratified. He loses his right to void the agreement. He led the dealer to believe that he had an unfettered legal capacity to contract.

**Question 5:**

Identify whether the following contracts are valid. Motivate your answer.

5.1 Rodger and Sophia agreed that Sophia will engage in an adulterous relationship with Rodger so that Sophia could get the promotion she applied for. **(4 marks)**

**Answer:**

No, this contract is not valid. An act of adultery in order to gain a promotion is against the good morals of society. Due to this, it is prohibited by common law and therefore renders the contract null and void, hence it is an invalid contract.

5.2 Andrew and Benny agreed that Andrew would hijack a cash-in-transit vehicle and steal the money. **(4 marks)**

**Answer:**

This is not a valid contract. The contract involves a criminal act against the law. Due to the illegality of the contents of the contract, it is prohibited by the legislation and therefore the contract is invalid.

**Question 6:**

**SUBMISSION BY MONDAY, 28 MARCH, 17:00**

Abel is a very expensive second-hand car supplier. Bean is desperately in need of a car since his current car has reached its lifespan, however he cannot afford to purchase a new car and is therefore in need of a second-hand car. He is referred to Abel and accordingly contacts Abel for a quote. Unfortunately, the quote from Abel is significantly higher than other suppliers (it is the equivalent of a new car). Bean ultimately decides to go with another supplier who is cheaper than Abel and offers some good benefits. Abel was anticipating Bean to purchase the car since he has not made enough sales in the month of March. Unhappy to hear about Bean's decision, Abel confronts Bean and threatens him with a gun that if he does not purchase the car from him, he will harm both Bean and the other supplier. Scared to be harmed and in protecting the other dealer, Bean enters into a purchase and sale agreement with Abel. Explain whether the above contract is valid based on the facts. **(8 marks)**

**Answer:**

When Abel confronted Bean and threatened him, this act alone went against the good morals of society, therefore the contract is contrary to common law. Abel also threatened Bean and the supplier with a gun. This is an illegal act contrary to statute. Bean was forced into consensus, he was not willing to enter a contract with Abel due to his prices being too expensive, he has the right to decline Abel's offer. Able forcibly made Bean enter a sales agreement. For the above reasons, it is clear that this is an invalid contract.

**Question 7:**

Explain the three situations where a minor will not be bound to a contract. **(6 marks)**

**Answer:**

- 1) When The guardian of the minor acts on their own behalf and not on behalf of the minor they represent outside their authority on behalf of the minor
- 2) When the minor acts as the guardian and the guardian acquires the rights and duties flowing from the representative act.
- 3) When the minor acts on his/her own behalf without consent or assistance from a guardian. The minor cannot be held liable for these acts.

**Question 8:**

**SUBMISSION BY MONDAY, 28 MARCH, 17:00**

Distinguish between the *par delictum* rule, the *ex turpi causa* rule and the parole evidence rule. **(6 marks)**

**Answer:**

The *par delictum* rule prescribes that a party should not obtain satisfaction from a court of law with where his own conduct is wrongful. *Ex turpi causa non oritur actio* is a legal doctrine which states that a plaintiff will be unable to pursue legal relief and damages if it arises in connection with their own tortious act. The parole evidence rule prescribes that where parties to a contract have reduced their agreement to writing, it becomes the exclusive memorial of the transaction, and no evidence may be led to prove the terms of the agreement other than the document itself, nor may the contents of the document be contradicted, altered, added to or varied by oral evidence.

---

**END**