

CLA 1503 - HOMEWORK 1

CHAPTER 1 – A LEGAL SYSTEM - memo

Question 1

Soon after the death of Multimillionaire Joe Doe a dispute arises regarding the validity and interpretation of his will.

Which one of the following courts should be approached to resolve the dispute?

1. A magistrates court
2. A small claims court
3. the Constitutional court
4. **The High Court. X**

Question 2

Which one of the following sources will a SA Lawyer consult on Roman Dutch Law?

1. the law of the twelve Tables
2. the Institutiones
3. **the Corpus Iuris Civilis**
4. Commentarius ad Pandectas

Question 3

Which one of the following statements regarding the stare decisis rule/doctrine is **INCORRECT**

1. A high court, whether it is a full bench consisting of three judges, a bench of 2 judges, or only one, is bound by the decisions of the high court of appeal
2. One high court is not bound to follow the decisions of a high court from another area of jurisdiction.
3. Within the area of jurisdiction of one High Court, a bench of two judges is bound by a decision of the full bench of the same court.
4. **If the judgments of the High court are conflicting, a magistrate's court can follow any decision it deems to be right irrespective of the jurisdiction in which it falls. X**

Question 4

MAN TRUCK & BUS(SA)(PTY) LTD V DORBYL LTD t/a DORBYL TRANSPORT PRODUCTS AND BUSAF 2004(5) SA 226 SCA. Supreme Court of appeal.

Mpati DP, Zulman JA, Farlam JA, Cloete JA and Lewis JA.
2004 February 17; March 25

Which one of the following statements is **incorrect**?

1. The case was reported in the fifth part of the SA Law reports of 2004
2. **MAN TRUCK & BUS was the applicant and DORBYL the the respondent (HEARD ON APPEAL and Parties are then Swapped)**
3. The case was heard by a full bench of five appellate judges
4. The seat of the supreme Court of Appeal is Bloemfontein

Question 5

Which one of the following is not an authoritative source of SA Law?

1. SA Case Law
2. Corpus Iuris Civilis
3. **English case law**
4. The Constitution of SA, 1996
5. Judgements of the Dutch courts before 1652

QUESTION 6

Which one of the following officers is responsible for the issue of process, the enrolment of cases, the maintenance of records and the issuing of orders of the High Court?

1. The clerk
2. **The Register**
3. The litigating parties themselves
4. The Sheriff

QUESTION 7

Which one of the following statements is **incorrect**?

1. Every Court is bound by the decisions of the superior court within its jurisdiction.
2. **A court is not bound by the decision of a court of concurrent status within its own area of jurisdiction.**
3. A high Court is not bound to follow the decision of another High Court since they belong to different areas of jurisdiction.
4. Magistrates Courts are bound to follow the decisions of the Supreme Court of Appeal and the High Courts.

QUESTION 8

Which one of the following is not a requirement for a customary rule to be recognized as a legal rule?

1. It must have existed for a long time and must be reasonable.
2. It must be generally recognized and observed by the community.
3. The contents thereof must be clear and certain.

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Table of Contents Cla 1503 Past Exam Solutions

1. Understanding the eBook Cla 1503 Past Exam Solutions
 - The Rise of Digital Reading Cla 1503 Past Exam Solutions
 - Advantages of eBooks Over Traditional Books
2. Identifying Cla 1503 Past Exam Solutions
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Cla 1503 Past Exam Solutions
 - User-Friendly Interface
4. Exploring eBook Recommendations from Cla 1503 Past Exam Solutions
 - Personalized Recommendations
 - Cla 1503 Past Exam Solutions User Reviews and Ratings
 - Cla 1503 Past Exam Solutions and Bestseller Lists

5. Accessing Cla 1503 Past Exam Solutions Free and Paid eBooks
 - Cla 1503 Past Exam Solutions Public Domain eBooks
 - Cla 1503 Past Exam Solutions eBook Subscription Services
 - Cla 1503 Past Exam Solutions Budget-Friendly Options
6. Navigating Cla 1503 Past Exam Solutions eBook Formats
 - ePub, PDF, MOBI, and More
 - Cla 1503 Past Exam Solutions Compatibility with Devices
 - Cla 1503 Past Exam Solutions Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Cla 1503 Past Exam Solutions
 - Highlighting and Note-Taking Cla 1503 Past Exam Solutions
 - Interactive Elements Cla 1503 Past Exam Solutions
8. Staying Engaged with Cla 1503 Past Exam Solutions
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Cla 1503 Past Exam Solutions
9. Balancing eBooks and Physical Books Cla 1503 Past Exam Solutions
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Cla 1503 Past Exam Solutions
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Cla 1503 Past Exam Solutions
 - Setting Reading Goals Cla 1503 Past Exam Solutions
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Cla 1503 Past Exam Solutions
 - Fact-Checking eBook Content of Cla 1503 Past Exam Solutions
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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