QUESTION ONE (30 Marks)

1.1 Write a note in which you discuss the factors that a court will take into account before it grants an order of presumption of death in terms of the common law. Include in your answer a discussion on the effects of the order. (10 marks)

1.2 The Domicile Act 3 of 1992 makes provision for two kinds of Domicile: a domicile of choice and a domicile by operation of the law. Write a note in which you explain what the requirements for a ‘domicile of choice’ are. (10 marks)

1.3 Write a note on the minor’s capacity to marry. (5 marks)

1.4 South African law recognises two categories of persons or legal subjects: natural persons and juristic persons. Write a note in which you explain what a natural person is and what a juristic person is. (5 marks)
QUESTION TWO (40 Marks)

2.1 Mr French and his minor son Tim entered into a contract to buy 250 shares each in Country Company. Mr French was present when his son concluded the contract and was aware that his son was buying shares in the company. Tim subsequently experienced financial difficulties and could not pay the full purchase price. As a result of Tim’s failure to pay, the Company issued summons against Tim. Tim at this point raised the defence that he was a minor when he entered into the contract. The company withdrew the action against Tim and subsequently sued Mr French for the outstanding amount.

Mr French does not believe that he is liable for the money outstanding and approaches you for advice. Advise him of his chances of successfully defending the action.

(20 marks)

2.2 Samantha is having an affair with Harry and Peter. She subsequently falls pregnant and is convinced that Harry is the father of the child. Harry believes her and they get married. After the child is born its red hair and green eyes are those of Peter and not Harry, who is blond and blue eyed.

Discuss the factors that could be used by Harry to discharge the onus of proof placed on him by the presumption *pater est quem nuptiae demonstrant*.

(20 marks)