INTRODUCTION

Purpose of the Law of Delict
This course aims to provide students with a working knowledge of the general principles of the Law of Delict and the application of these from normative and factual perspectives. During the first semester you will examine four of the five elements required to establish delictual liability (conduct, wrongfulness, fault and causation). The fifth element-harm is covered in the second semester along with specific forms of damage protected by the Actio Legis Aquiliae, the Actio Iniuriarum and Germanic action. The course will also consider the development and evolution of this area of law in South Africa’s constitutional dispensation.

Assumptions of Prior Learning
The lecturer in this course assumes that you are able to:
- Recognise, identify and solve legal problems
- Communicate effectively in English (written and spoken)
- Conduct in-depth research and comply with conventions of ethical referencing
- Take charge of your own studies and organise your time accordingly

COURSE OBJECTIVES/ LEARNING OUTCOMES
By the end of the course you are expected to:
- Know and understand the main principles governing delictual liability and the rules derived from case law, legislation and/or the common law
- Recognise problems governed by the principles of delict and where they fit in the scheme of this area of law
- Relate the various dimensions of factual problems to applicable rules and principles
- Demonstrate an awareness and understanding of the development of this area of law as well as the effect of the Constitution in this regard
- Be able to communicate cogent, systematic solutions to delictual problems
- Organise and manage your time and resources effectively
- Demonstrate the ability to conduct e-research and the utilization of e-learning legal resources and platforms.

The specific outcomes for each section/topic of the work are outlined in the reading list.
TEACHING METHODS
The two principal modes of teaching and learning in this course are lectures and self-study.
Lectures: Lectures are participatory in nature and you may be called upon to comment on the prescribed readings. Students are therefore expected to prepare adequately for lectures and tutorials. Where necessary the lecturer will supplement course materials with illustrations and explanatory summaries.
Self-Study: Certain portions of the course as well as sections not covered during lectures are designated self-study sections. This means you are responsible for reading and understanding the material in these sections because these may be assessed in the form of an assignment, test or in the final examination. It is therefore your prerogative to approach the lecturer for clarity if your experience difficulty with concepts in the self-study sections.

RESOURCES FOR THE COURSE
Prescribed Text:
Loubser (Ed), Midgley (Ed), Mukheiber, Niesing, Perumal The Law of Delict in South Africa 2ed (2012)
The lecturer will draw on both books as well as other relevant texts when addressing the course content.
Recommended:
<table>
<thead>
<tr>
<th>WEEK</th>
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<th>TOPIC</th>
<th>ASSESSMENTS</th>
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<tr>
<td>1</td>
<td>12-16 Feb</td>
<td>General Introduction &amp; Conduct</td>
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<td>2</td>
<td>19-23 Feb</td>
<td>Introduction to Harm</td>
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<td>3</td>
<td>26-02 March</td>
<td>Factual Causation</td>
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<td>05-09 March</td>
<td>Legal Causation</td>
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<td>12-16 March</td>
<td>Revision/Tutorial Exercises</td>
<td>Test 1</td>
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**STUDY BREAK**

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<td>Fault: Intention</td>
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<td>Fault: Negligence (1)</td>
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<td>30-04 April</td>
<td>Fault: Negligence (3)</td>
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<td>11</td>
<td>7-11 May</td>
<td>Contributory fault</td>
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<td>12</td>
<td>14-18 May</td>
<td>Liability without fault</td>
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<td>13</td>
<td>21-25 May</td>
<td>Revision &amp; Test Prep</td>
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**SWOT WEEK & EXAMS**

**VACATION**

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<td>23-27 July</td>
<td>Wrongfulness: Omissions (1)</td>
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<td>16</td>
<td>30-07 July</td>
<td>Wrongfulness: Omissions (2)</td>
<td>Assignment 2</td>
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<td>17</td>
<td>06-10 August</td>
<td>Damages: rules and policy limitations (1)</td>
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<tr>
<td>18</td>
<td>13-17 August</td>
<td>Damages: rules and policy limitations (2)</td>
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<td>20-24 August</td>
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**STUDY BREAK**

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<td>Special Forms of Liability (1)</td>
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<td>10-15 Sept</td>
<td>Special Forms of Liability (2)</td>
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<tr>
<td>21</td>
<td>17-21 Sept</td>
<td>Infringement of Personality</td>
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COURSE CONTENT

TOPIC 1

Introduction to the Law of Delict
These lectures aim to provide you with an introduction to the Law of Delict. Delict will be defined and explained and then further distinguished from other forms of liability and civil obligations. The nature and differences between the Actio Iniuriarum and the Actio Legis Aquiliae will be explained and these will be distinguished from the action for pain and suffering.

Prescribed Reading
Loubser and Midgley (eds): Chapter 1, 2 & 3
Neethling and Potgieter: Chapter 1
Matthews v Young 1922 AD 492
Hoffa v SA Mutual Fire & General Insurance Co. Ltd 1965 (2) SA 944 (C)
Fose v Minister of Safety and Security 1997 (3) SA 786 (CC)
Telematrix (PTY) v Advertising Standards Authority SA 2006 (1) SA 461 (SCA)
Carmichele v Minister of Safety and Security (4) SA 938 (CC)

TOPIC 2

Conduct and onus of proof
The purpose of these lectures is to discuss Conduct as a requirement for delictual liability. We will also address onus of proof in the Law of Delict as well as the shift in onus which occurs when dealing with the Defence of Automatism.
Prescribed Reading
Loubser and Midgley (eds): Chapter 4
Neethling and Potgieter: Chapter 2

The Government v Marine & Trade Insurance Co Ltd 1973 (3) SA 797 (C)
Minister van Polisie v Ewels 1975 (3) SA 590 (A)
Mabaso v Felix 1981 (3) SA 865 (A)
Molefe v Mahaeng 1999 (1) SA 562 (SCA)
Minister van Veiligheid en Sekuriteit v Geldenhuys 2004 (1) SA 515 (SCA)

TOPIC 3

Harm
The purpose of these lectures will introduce you to the concept of harm. The distinction between patrimonial loss and non-patrimonial loss will be examined as well as infringements of a personality interest.

Prescribed Reading
Loubser and Midgley (eds): Chapter 4
Neethling and Potgieter: Chapter 2

Fourie v Naranjo 2008 (1) SA 192 (C)
Union Government v Warneke 1911 AD 657
Jowell v Bramwell-Jones 2000 (3) SA 274 (SCA)
Southern Insurance Association v Bailey NO 1984(1) All SA 98 (A)
Khumalo v Holomisa 2002 5 SA 401 (CC)

TOPIC 4

Causation
Factual Causation
Loubser and Midgley (eds) Chapter 5 (69-84)
Neethling and Potgieter Chapter 5 (183-196)

Minister of Police v Skosana 1977 (1) SA 31 A
International Shipping Co (pty) Ltd v Bentley (1) SA 680 (A) 700E-701C
First National Bank of South Africa Ltd v Duvenhage 2006 5 SA 319 (SCA) 324-325
Lee v Minister of Correctional Services 2013 (2) SA 144 (CC)

Legal Causation
Loubser and Midgley (eds) Chapter 6 (89-100)
Neethling and Potgieter Chapter 5 (197-219)

S v Mokgethi 1990 (1) SA 39J-41B
TOPIC 5

Fault
This week you will be introduced to the concept of fault and its definitions. Intention as a form of faulty will be examined as well as the capacity and accountability of minors. Fault will also be distinguished from wrongfulness.

Prescribed Reading
Loubser and Midgley (eds): Chapter 7 (pages 102-117)
Neethling and Potgieter: Chapter 4 (pages 129-136)

Supplementary Reading
The Child Justice Act 75 of 2008
RW Nugent ‘Yes, it is always a bad thing for the law: A reply to Professor Neethling’ 2006 SALJ 557

Negligence (introduction)
In these lectures you will be introduced to the general test for negligence as well as the standard of the reasonable person. These lectures will also be used to explain what is meant by foreseeability and preventability as well as circumstances that require a higher standard of care, as demanded by law. The final lecture will be dedicated to a discussion on contributory negligence.

Loubser and Midgley (eds): Chapter 7 (117-138)
Reasonable Foreseeability
- Kruger v Coetzee 1966 (2) SA 428 (A)
- Mukheiber v Raath 1999 (3) SA 1065 (SCA)
- Sea Harvest Corp v Duncan Dock 2000 (1) SA 827 (SCA)
- Botes v Van Deventer 1966(3) SA 182(A)
- Minister van Polisie en Binnerlandse Sake v Van Aswegen 1974 (2) SA 101 (A)

Unforeseeable harm & the unforeseeable plaintiff
- Smith v Leech Brain [1962] 2 QB 405
- Murray v Union & South West Africa Insurance 1979 (2) SA 825 (D)
- Palsgraf v Long Island Railroad Company 248 N.Y. 339, 162 N.E. 99 (N.Y. 1928)
- Bourhill v Young [1943] AC 92
- Workmen Compensation Commissioner v De Villiers 1949 (1) SA 474 (C)
- Prince v Minister of Law and Order 1987 (4) SA 231 (E)
- Daniels v General Accident Insurance LTD 1992 (1) SA 757 (CPO)
- Moni v Mutual & Federal Versekeringsmaatskappy Bpk 1992 (2) SA 600 (T)
- Stansbie v Troman [1948]2 KB 48
- General Accident Insurance v Xhego [1992] 1 All SA 414 (A)
- Van der Merwe v Union Government 1936 TPD 185
- Moor v Minister of Posts and Telegraphs 1949 (1) SA 815 (A)
- M Dendy ‘A fresh perspective on the unforeseeable plaintiff (1990) SALJ 45
- J R Midgley ‘The unforeseeable plaintiff and liability towards trespassers’ (1992) SALJ 575

Reasonable Preventability
- Kruger v Coetzee 1966 (2) SA 428 (A)
- Robertson v Durban Turf Club 1970 (4) SA 649 (N)
- Pretoria City Council v De Jager 1997 (2) SA 46 (A)
- Bolton v Stone [1951] AC 850
- Cape Metropolitan Council v Graham [2001] 1 All SA 215 (A)
- Wasserman v Union Government 1934 AD 228
- Lomagundi Sheetmetal & Engineering v Basson 1973 (4) SA 523 (RA)
- Knouwds v Administrateur, Kaap 1981 (1) SA 544 (C)
- Minister of Education v Wynkwart NO 2004 (3) SA 577 (C)
- Member of the Executive Council of Gauteng Responsible for Education v Rabie (A758/06) [2008] ZAGPHC 71

Contributory Fault
- Loubser and Midgley (eds) Chapter 34 (435-440)
- Neethling and Potgieter Chapter 4 (167-182)
The Apportionment of Damages Act 34 of 1956
Davies v Mann (1882) 10 M & W
South British Insurance v Smith 1962 (3) SA 826 (A)
Jones NO v Santam Bpk 1965 (2) SA 546 (A)
Eskom Holdings v Hendricks 2005 (5) SA 503 (SCA)
AA Mutual Insurance Association Ltd v Nomeka 1976 (3) SA 45 (A)
Minister van Wet en Orde v Ntsane 1993 (1) SA 560 (A)
Weber v Santam Versekeringsmaatskappy Bpk 1983 (1) SA 381 (A)
Bowkers Park Komga Co-operative Ltd v SAR & H 1980 SA 91 (E)
Vorster v AA Mutual Insurance Association Ltd 1982 (1) SA 145 (T)
Union National South British Insurance Co Ltd v Victoria 1982 (1) SA 444 (A)
General Accident Versekeringsmaatskappy v Uijs NO 1993 (4) SA 228 (A)
Lampert v Hefer 1955 (2) SA 507 (A)
Netherlands Insurance Co of SA Ltd v Van der Vyver 1968 (1) SA 412 (A)
Santam Insurance Co Ltd v Voster 1973 (4) SA 764 (A)
Malherbe v Eskom 2002 (4) SA 497 (O)
Greater Johannesburg Transitional Metropolitan Council v ABSA Bank Ltd t/a Volkskas Bank 1997 (2) SA 691 (W)

Contributory negligence of minors
Weber v Santam Versekeringsmaatskappy Bpk 1983 (1) SA 381 (A)
Eskom Holdings v Hendricks 2005 (5) SA 503 (SCA)
Bowkers Park Komga Co-operative Ltd v SAR & H 1980 (1) SA 91 (E)
Voster v AA Mutual Insurance Association Ltd I982 (1) SA 145 (T) 85
Union National South British Insurance Co Ltd v Victoria 1982 (1) SA 444 (A)
General Accident Versekeringsmaatskappy SA Bpk v Uijs NO 1993 (4) SA 228 (A).

Liability without fault
Vicarious liability
Minister of Police v Rabie 1986 (1) SA 117 (A)
K v Minister of Safety and Security 2005 (6) SA 419 (CC)
F v Minister of Safety and Security and Another 2012 (1) SA 536 (CC)
JA Linscott ‘A critical analysis of the majority judgement in F v Minister of Safety and Security 2012 1 SA 536 (CC) in [PER / PELJ 2014(17) 6]

TOPIC 6

Wrongfulness
These lectures will introduce you to the concept of wrongfulness as well as the need for and the purpose of wrongfulness in the Law of Delict. The various approaches to wrongfulness including the doctrine of subjective rights, breach of a legal duty and the concept of a 'duty to care' will also be introduced during this lecture.

Prescribed Reading
Loubser and Midgley (eds): Chapter 8
Neethling and Potgieter: Chapter 3 (pages 33-86)
Cape Town Municipality v Paine 1923 AD 207
Hershel v Mrupe 1954 (3) SA 464 (A) para 489-490
Minister van Polisie v Ewels 1975 (3) SA 590 (A)
University van Pretoria v Tommie Meyer Films (Edms) Bpk 1977 (4) SA 376 (T)
Faiga v Body Corporate of Dumbarton Oaks & Another 1997 (2) SA 651 (W)
Minister of Safety and Security v Van Duivenboden 2002 (6) SA 431 (SCA)
Van Eedden v Minister of Safety & Security 2003 (1) SA 389 (SCA)
Minister of Safety and Security v Hamilton 2004 (2) SA 216 [229]-[230]
Telematrix v Advertising Standards Authority 2006 (1) SA 461 (SCA) para [12]-[13]
Two Oceans Aquarium Trust v Kantey & Templer 2006 (3) SA 138 (SCA) para [10]-[11]
Lee v Minister of Correctional Services 2013 (2) SA 144 (CC)
BS v MS and Another 2015 (6) SA 356 (GP)

Supplementary Reading
M Pieterse ‘The right to be free from public/private violence after Carmichele’ 2002 SALJ 27

Breach of a legal duty
In this section we will be looking at the breach of a legal duty which is one of the tests used to
determine wrongfulness of omissions. We will also touch on the traditional crystalised
categories as developed through case law. If time permits we will also commence with the
development and evolution of this area of law in South Africa’s constitutional dispensation
failing which, that section of the work will be covered in next week’s lecture.

Prescribed Reading
Loubser and Midgley (eds): Chapter 8 & 21
Neethling and Potgieter: Chapter 3 (pages 33-86)

Prior Conduct
Haliwell v Johannesburg Municipality Council 1912 AD 65
SAR & H v Estate Saunders 1931 (AD) 276
Silva ‘s Fishing Corporation (Pty) Ltd v Maweza 1957(2) SA. 256 (A)
Donoghue v Stevenson, [1932] AC 562
Minister van Polisie v Ewels 1975 (3) SA 590 (A)
Regal v African Superslate (Pty) Ltd 1963 (1) SA 102 (A)
Van Eedden v Minister of Safety and Security 2003 (1) SA 389 (SCA)
Control of a dangerous object/situation; Special Relationship; Public Office, etc.
Minister of Forestry v Quathlamba (Pty) Ltd 1973 (3) SA 69 (A)
S v Van As 1967 (4) SA 594 (A)
Macadamia Finance Ltd v De Wet 1991 (4) SA 273 (T)
Contractual obligation & Creation of an impression that the interests of a third party
will be protected.
Blore v Standard General Insurance Co Ltd en ’n Ander 1972 (2) SA 89 (O)
S v Russel 1967 (3) 739 N
Compass Motors Industries (Pty) Ltd v Callguard (Pty) Ltd 1990 (2) SA 520 (W)
Development of wrongfulness in our constitutional dispensation
Cape Town Municipality v Bakkerud 2000 (3) SA 1049 (SCA)
Carmichele v Minister of Safety and Security 2001 (4) SA 938 (CC)
Minister of Safety and Security v Van Duivenboden 2002 (6). SA 431 (SCA)
Van Eeden v Minister of Safety and Security 2003 (1) SA 389 (SCA)
Minister of Safety and Security & another v Carmichele 2004 (3) SA 305 (SCA)
Minister of Safety and Security v Hamilton 2004 (2) SA 216 (SCA)
Local Transitional Council of Delmas v Boshoff 2005 (4) SA 175 (SCA)
Loureiro v iMvula Quality Protection 2014 (3) SA 394 (CC)
Country Cloud Trading CC v MEC, Department of Infrastructure Development, Gauteng 2015 (1) SA 1 (CC)
Steenkamp NO v Provincial Tender Board of the Eastern Cape 2007 (3) SA 121 (CC)
MEC for Education, Western Cape Province v Strauss 2008 (2) SA 366 (SCA)

TOPIC 7

Law of Damages
The purpose of these lectures will introduce you to the rules and policy limitations applicable to both patrimonial and non-patrimonial loss insofar as the scope of damages which are recoverable in law. We will consider the ‘once and for all rule’; mitigation of loss rule; prospective loss and collateral benefits. The lectures will also be used to consider the problem that arise when dealing with unconscious plaintiffs.

Readings
Neethling and Potgieter: 221-263
Loubser and Midgley (eds) pages: 401-430

Prescribed cases
Introduction to damages
Union Government (Minister of Railways and Harbours) v Warneke 1911 AD 657
Dhlamini v Protea Assurance Co Ltd 1974 (4) SA 906 (A)
Santam Insurance Ltd v Ferguson 1985(4) SA 843(A)
Heese NO v Road Accident Fund 2012 (6) SA 88 (SCA)
MEC, Department of Welfare, Eastern Cape v Kate 2006 (4) SA 478 (SCA)
Modderfontein Squatters, Greater Benoni City Council v Modderklip Boerdery (Pty) Ltd
President of the Republic of South Africa v Modderklip Boerdery (pty) Ltd 2004
Modderfontein Squatters, Greater Benoni City Concil v Modderklip Boerdery (PTY) LTD (Agri SA and Legal Resources Centre Amici Curiae), President of the Republic of the South Africa and Others v Modderklip Boerdery (PTY) LTD (Agri SA and Legal Resources Centre Amici Curiae) 2004 (6) SA 40 (SCA)
Fose v Minister of Safety and Security 1997 (3) SA 786 (CC)
Halstead-Cleak v Eskom Holdings Ltd (26360/14) [2015] ZAGPPHC 632; 2016 (2) SA 141 (GP) (1 June 2015)
MEC for the Department of Public Work, Roads and Transport v Botha (20811/2014) [2016] (17 March 2016)
‘Once and for all’ rule
Evans v Shield Insurance Co Ltd 1980 (2) SA 814 (A)
TOPIC 8

Special Forms of Liability

Pure Economic Loss
In these lectures you will be introduced to the concept of pure economic loss. These lectures will be used to examine the rules and principles which apply when pure economic loss arises from a negligent misstatement or from interference with a contractual relationship.

Prescribed Reading (Please also consult the relevant chapters in Loubser and Midgley (eds) and Neethling and Potgieter)
Weller & Co & another v Foot and Mouth Disease Research Institute [1966] 1 QB 569A
Hershel v Mrupe 1954 (3) SA 464 (A).
Union Government v Ocean Accident & Guarantee Corporation Ltd 1956 (1) SA 577 (A)
Bayer South Africa (Pty) Ltd v Frost 1991 (4) SA 559 (A)
Standard Chartered Bank of Canada v Nedperm Bank Ltd 1994 (4) SA. 747 (A)
Perlman v Zoutendyk 1934 CPD 151
Administrateur, Natal v Trust Bank van Afrika Bpk 1979 (3) SA 824 (A),
EG Electric Co (Pty) Ltd v Franklin 1979 (2) SA 702 (EC)
Sanlam Capital Markerts (Pty) Ltd v Mettle Manco (Pty) Ltd [2014] ZAGPJHC 134
Minister of Safety and Security v Scott (969/2013) [2014] ZASCA 84
Country Cloud Trading CC v MEC Department of Infrastructure Development 2015 (1) SA 1 (CC);

Interference with contractual relations
In this lecture we will examine whether a contracting party should have recourse to a delictual where he/she suffers pure economic loss as a result of a breach of a contract.

Prescribed Reading
Lillicrap, Wassenaar and Partners v Pilkington Brothers (SA) (Pty) Ltd [1985] 1 All SA 347 (A)
Two Oceans Aquarium Trust v Kantey & Templer (Pty) Ltd [2005] ZASCA 109
Holtzhausen v Absa Bank Ltd [2004] ZASCA 79; 2008 (5) SA 630 (SCA) [2005] 2 All SA 560 (SCA)
D Hutchison & DP Visser ‘Lillicrap Revisited: Further Thoughts on Pure Economic Loss and Concurrence of Actions’ (1985) 1032 SALJ 587

Unlawful Competition
Reckitt & Colman SA (Pty) Ltd v SC Johnson & Son SA (Pty) Ltd 1993 2 SA 307 (A)
Woodlands Diary (Pty) Ltd v Parmalat SA (Pty) Ltd 2002 2 SA 268 (E)
Stellenbosch Wine Trust Ltd v Oude Meester Group Ltd 1977 2 SA 221 (C).

Product Liability
Ciba-Geigy (Pty) Ltd v Lushof Farms (Pty) Ltd 2002 (2) SA 447 (SCA)
Wagener v Pharmacare Ltd and Cuttings v Pharmacare Ltd [2003] 2 All SA 167 (SCA)
Freddy Hirsch Group (Pty) Ltd v Chickenland (Pty) Ltd [2011] 3 All SA 362 (SCA))
Escola v Coca-Cola Bottling Co of Fresno 150 P 436 (1944) 440
Consumer Protection Act 68 of 2008

Psychological Lesion (emotional shock)
Bester v Commercial Union Versekeringsmaatskappy van SA Bpk 1973 (1) SA 769 (A)
Masiba & Another v Constantia Insurance Co Ltd & Another 1982 4 SA 333 (C).
Barnard v Santam Bpk 1999 (1) SA 202 (SCA)
Fourie v Naranjo and Another [2007] 4 All SA 1152
Hing v Road Accident Fund [2014] 2 All SA 186 (WCC)

TOPIC 9

Infringement of Personality Interests
In these lectures you will be introduced to the action iniuriarum-an action which protects against the intinal infringement of certain personality rights. The right relating to physical
integrity, dignity and good name will be considered. Defamation will also be introduced to students and the issue of *locus standi* in defamation actions will be examined.

**Prescribed Reading**

*R v Umfaan* 1908 TS 62
*Delanger v Costa* 1989 (2) SA 857
*Financial Mail (Pty) Ltd & Others v Sage Holdings & Another* 1993 (2) SA 451 (A)
*Minister of Justice v Hofmeyer* 1992(3) SA 108(C).

**Defamation**

*National Media v Bogoshi Ltd and Others* 1996 (3) SA 78 (W)
*Argus Printing and Publishing v Esselen’s Estate* [1994] 2 All SA 160 (A)
*Dhlomo NO v Natal News Papers (Pty) Ltd and Another* 1989 (1) SA 945 (A)
*Mthemb-Mahanyele v Mail and Guardian Ltd and Another* [2004] 3 All SA 511 (SCA)
*Khumalo v Holomisa* 2002 5 SA 401 (CC)
*Johnson v Beckett* 1992 (1) SA 762 (AD)
*Delta Motor Corporation (Pty) Ltd v Van der Merwe* [2004] 4 All SA 365 (SCA)
*Ketler Investments CC t/a Ketler Presentations v Internet Service Providers’ Association* 2013. ZAGPJHC 232
*Dutch Reformed Church Vergesig v Sooknunan* 2012 (6) SA 201 (GSJ) .
*Isparta v Richter* 2013 6 SA 4529 (GP)

A Roos, Professor of Private Law in the University of South Africa, ‘Privacy in the Facebook Era: A South African Legal Perspective’ (2012) 129 SALJ at 375
A Roos and M Slabbert ‘Defamation on Facebook: Isparta v Richter 2013 6 SA 529 (GP)’
PER / PELJ 2014(17) 6

**Deprivation of freedom**

*Thandani v Minister of Law and Order* 1991 (1) SA 702 (E)
*Bennett v Minister of Police and Another* 1980 (3) SA 24 (CPD)
*Minister of Law & Order v Hurley* 1986(3) SA 568(A)
*Zealand v Minister of Justice and Constitutional Development* (CCT54/07) [2008] ZACC 3
*Minister of Justice v Hofmeyr* 1992(3) SA 108(C)

**General Defences**

These lectures will consider some of the defences which are available against a claim for delictual damages including consent, private defence, necessity, etc.

**Prescribed Reading**

*Lampert v Hefer NO* 1955 (2) SA 507 AD
*Santam Insurance Co Ltd v Voster* 1973 (2) SA 186 (W)
*Castell v De Greef* 1994 (4) SA 408 (C)
*Esterhuizen v Administrator, Transvaal* 1957 (3) SA 710 (T)
*Waring & Gillow Ltd v Sherborne* 1904 TS 340 401
*Stoffberg v Elliot* 1923 CPD 148
*Maartens v Pope* 1992 4 SA 883 (N) 888
*Johnson v Beckett* 1992 (1) SA 762 (AD);
TOPIC 10

Additional Statutory Forms of Compensation
In this section we will consider the manner and extent in which the law of delict has been developed by legislation enacted to compensate victims of harm. The relevant statutes will be flagged during lectures.

Compensation for Occupational Injuries and Diseases Act 130 of 1993 (‘COIDA’)
Occupational Diseases in Mines and Works Act 78 of 1973 (ODIMWA)
Road Accident Fund Act 56 OF 1996
Consumer Protection Act 38 of 2008
Mankayi v Anglogold Ashanti Ltd 2011 (3) DS 237 (CC)

ASSESSMENTS
You will be afforded multiple and continuous opportunities for assessment during the course of the year in line with the principles of outcome based education. Your competence will be ascertained in the form of 4 formative assessment tasks and a final examination, the summative assessment. The dates below were scheduled in consultation with all the final-year LLB lecturers and have been approached with a degree of consideration to ensure your academic success. The manner in which the assessments will be conducted will be as transparent, clear and explicit as possible. Moreover, you will be provided with meaningful feedback on all tasks.

1. Two tests each contributing up to 15% towards your year mark.
The questions in the tests may take the form of theory and/or problem-type. You will be expected to demonstrate your ability to solve legal problems using legal reasoning. You will be graded on your ability to relate the various dimensions of factual problems to applicable rules and principles. Furthermore, you have to show your ability to provide cogent, systematic solutions to delictual problems stemming from the areas covered thus far.

2. Two research assignments each contributing 10% towards your year mark.
The assignments are aimed at assessing your ability to conduct in-depth research and the utilization of e-learning legal resources. You will be expected to provide cogent, systematic solutions to delictual problems and/or provide sound legal opinions. You will also be assessed on your ability to comply with conventions of ethical referencing. Overall, the task aim at gauging whether you are able to organise and manage your time and resources effectively.

7. **Closed Book Examination Oct/Nov (50%) (Summative Assessment)**

The final assessment in the course will be in the form of an examination to be written during the October/November examinations cycle. The exam will be for a total of 60 marks thus counting 50% towards your final mark. The duration of the paper will be 3 hours. Similarly to the tests, questions in the exam may take the form of theory and/or problem-type question. At this stage you will be expected to a have a firm grasp of all the legal principles covered during the year. No section work is written off. Ideally, the exam would cover everything however; an emphasis will be on sections covered in semester 2.