INSTRUCTION

1. Answer any three (3) questions.
2. This paper contains three (3) pages.
3. You are requested, in your own interests, to write legibly.
Question One

Critically discuss and distinguish between the concepts of formal and substantive equality with reference to case law.

[25 marks]

Question Two

“South Africa has a multitude of family formations that are evolving rapidly as our society develops, so it is inappropriate to entrench any particular form as the only socially and legally acceptable one.”

(Sachs J at para 59 in Minister of Home Affairs and Another v Fourie and Another 2006 (3) BCLR 355 (CC)).

Discuss this statement in view of the key changes in the law relating to marriage and the way society views same-sex relationships and unions in South Africa.

[25 marks]

Question Three

Mrs Sparks is employed by Comfy Shoes as an administrative assistant. Her manager, Mr Flaky, constantly tells her she is beautiful, and regularly expects her to work late. When she works late, Mr Flaky leers at her, tries to stand so close to her he almost touches her. He offers to take her out for a quiet romantic dinner which he thinks she would enjoy because she is a woman who needs special love and care. He tells her that if she keeps him happy by having sex with him, he will make sure that her workload is lessened, that she gets preferential treatment over the other ladies in the office and promises her a promotion to senior administrative assistant over anybody else in the office.

Mrs Sparks is uncomfortable and unhappy about Mr Flaky’s advances and suggestions, and tells the Managing Director, Mr Snaky about the situation. With a broad smile and a wink, Mr Snaky tells her to get on with what she is paid for, to ‘service the company
After three months of repeated, similar incidents from Mr Flaky, and little or no support from Mr Snaky, Mrs Sparks resigns from her job because she finds her work environment intolerable due to Mr Flaky’s persistent advances. She has no intention of returning to Comfy Shoes, and seeks advice on an appropriate action and relief she is entitled to should she succeed.

Advise Mrs Sparks fully.

[25 marks]

**Question Four**

Mrs Rani Naicker has been employed as a reservation clerk by Sundance Bed and Breakfast for 5 years. In January 2011, she learnt that she was 2 months’ pregnant. She was reluctant to tell her employer, Mr Louis van Rensburg, because he warned her repeatedly that her job is important and he hoped she never decides to take long leave or to fall ill.

In March 2011, she consults her doctor who informs her that there are potential complications with her pregnancy, and that she would need to attend a medical examination at least once a week for the rest of the term of her pregnancy. Whilst discussing this on the phone with her doctor, Mr van Rensburg walks in and hears some of the conversation. He glares at her and she tells him that she is pregnant and that she would need to take one day off a week for the medical consultations.

He is outraged and tells her that she is dismissed because she is dishonest and sickly. He tells her that she knew how he felt about her taking time off, and she had lied to him by not disclosing that she was pregnant.

She seeks advice on whether her employer can fairly dismiss her in these circumstances.

[25 marks]

[TOTAL FOR PAPER: 75]