

Course Code: L407 (S) 2005

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2005

TITLE OF PAPER : **CLINICAL LEGAL EDUCATION**

COURSE CODE : **L407**

TIME ALLOWED : **THREE (3) HOURS**

INSTRUCTIONS : (1) **ANSWER ANY FOUR (4) QUESTIONS.**
(2) **QUESTIONS CARRY EQUAL MARKS.**
(3) **REFER TO DECIDED CASES AND LITERATURE WHERE APPROPRIATE.**

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QUESTION 1

- (a) What is a 'power of attorney'? [5]
- (b) Distinguish between a 'declaration' and 'particulars of claim' in respect of action proceedings. [5]
- (c) In an application to set aside a judgement by default, what two things must a defendant/respondent show? [6]
- (d) In an action for divorce Mandla Shiba has entered an appearance to defend but has not within the time allowed filed his plea. Draw the process representing the next step which Nomsa Shiba (Mandla's wife) may take in the proceedings in the Magistrate's Court. [9]
- [25 MARKS]**

QUESTION 2

- (a) With respect to a 'properly constituted action' -
- (i) Identify the two salient features of such action. [5]
- (ii) Why is the plaintiff plaintiff? [2]
- (iii) Why is the defendant defendant? [2]
- (b) What are the threefold functions of pleadings? [9]
- (c) With respect to the 'general rules of pleadings', what must every pleadings contain? [7]
- [25 MARKS]**

QUESTION 3

- (a) Give a summary of any five fundamental principles which govern all pleadings. [15]
- (b) What three formalities must a combined summons and every other pleading comply with? [10]
- [25 MARKS]**

QUESTION 4

- (a) What is a plea? [6]
 - (b) Describe the three things which a plea may contain. [12]
 - (c) What is a 'special plea'? Give two examples. [7]
- [25 MARKS]**

QUESTION 5

Write appropriate notes on the following areas of trial advocacy -

- (a) the opening statement [5]
 - (b) the basic cross examination technique. [5]
 - (c) cross examination ethics [5]
 - (d) closing argument (covering the aim, nature and presentation) [10]
- [25 MARKS]**

QUESTION 6

Discuss the basic trial advocacy skills with respect to 'preparation for trial', oral advocacy, the importance of the onus of proof, and sympathy of the court. **[25 MARKS]**