

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DEPARTMENT OF LAW**  
**MAIN EXAMINATION, MAY 2007**

**TITLE OF PAPER :**                   **CIVIL PROCEDURE**

**COURSE CODE :**                   **DL 032**

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

**INSTRUCTIONS :**                   **ANSWER ANY FOUR QUESTIONS.**

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THE INVIGILATOR**

### **QUESTION 1**

Not every individual or legal entity has power to sue and be sued in a court. Discuss this statement in the light of decided cases.

[25 MARKS]

### **QUESTION 2**

Mrs. Munro is married out of community of property and without the marital power of her husband. On a certain day she was driving the family at Siteki and this car was involved in a head on collision with a certain vehicle driven by John Dlamini who is fifteen years of age. The accident happened in the city centre of Siteki. John Dlamini was the sole cause of the accident.

Mrs. Munro has decided to sue John in the Supreme Court of a Swaziland for an amount of E70,000,00 towards repairing the car.

Because she is in a hurry to have her matter finalised she approaches the court by way of an urgent application. The application is served by Deputy Sheriff of Lubombo at John's place of residence. Unfortunately, John is not in the house on the day of service. The Deputy Sheriff then decides to serve the process on the family maid who is apparently 13 years of age.

Discuss the legal issues involved in this facts.

[25 MARKS]

### **QUESTION 3**

Discuss the jurisdiction of the following courts:

- (a) the Magistrate's court [10 marks]
- (b) the Supreme court [5 marks]
- (c) the Swazi Court [5 marks]
- (d) the High Court [5 marks]

[25 MARKS]

### **QUESTION 4**

There are certain rules every litigant must observe in the drafting of pleadings. Discuss these rules in detail.

[25 MARKS]

**QUESTION 5**

Discuss in detail the application procedure. Clearly state the various processes an application goes through up to the issuance of judgement by a court.

[25 MARKS]

**QUESTION 6**

Write short notes on the following:

- (a) Exception [5 marks]
- (b) Motion to strike out [5 marks]
- (c) Founding affidavit [5 marks]
- (d) Notice of Intention to defend [5 marks]
- (e) Simple summons [5 marks]

[25 MARKS]