

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION PAPER, MAY 2008**

**TITLE OF PAPER** : **TRIAL PRACTICE**

**COURSE CODE** : **L 403/L 602**

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

**INSTRUCTIONS** : **ANSWER ALL QUESTIONS.**

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TRIAL PRACTICE  
MAIN EXAMINATION 2007/2008

ANSWER ALL QUESTIONS

TIME ALLOWED: 3 HOURS

QUESTION ONE

You are an Attorney in the law firm Mwanza & Associates. Your client Siphon Sibeko instructs you that his house at Sandla Township, Mbabane was searched by members of the Royal Swaziland Police stationed in Mbabane. He further instructs you that the police officers confiscated his motor vehicle, alleging that the said motor vehicle was stolen. Your client seeks an order for the release of the said motor vehicle.

- a). What form of proceedings would you institute? (2 marks)
- b). What court process would you serve on the person you would sue? (2 marks)
- c). Who may serve the court process you stated in (b) above? (2 marks)
- d). Inventing the necessary particulars, draft the pleading you would serve on the person you would sue. (34 marks)

**[Total: 40 Marks]**

QUESTION TWO

- a). Using your own particulars, draft a charge in respect of robbery committed by two accused persons. (6 marks)
- b). What action is required of an Applicant who delivers an Interpleader Notice, where the subject matter of the dispute is immovable property? (3 marks)
- c). Describe the procedure that must be followed by an applicant in a matrimonial proceedings in terms of Rule 43. (4 marks)

f). Your client has been served with a Notice of Motion, wherein the applicant has appointed an address in Manzini, as an address of service of all documents in the proceedings.

i). Advise your client on the procedure to follow as well as the time limit within which to proceed. (4 marks)

ii). What particulars must be specified in relation to the procedure you stated in (i) above. (3 marks)

**[Total: 20 marks]**

### QUESTION THREE

You are an attorney in the law firm Mabuza & Associates and are instructed this day by one Menzi Sifiso Dlamini that he was assaulted by some members of the Swaziland Ubutfo Defence Force on the 16<sup>th</sup> October 2007. He instructs you that as a result of such assault he sustained injuries to his body and consequently suffered damage. He further instructs you to institute legal proceedings to recover damages in the High Court of Swaziland.

a). State the preliminary step you would take before instituting legal proceedings, citing relevant authority. (2 marks)

b). What type of summons would you serve on the Defendant and why? (2 marks)

c). Inventing the necessary particulars, draft the pleading in which you would set out your client's case. (16 marks)

**[Total: 20 Marks]**

#### **QUESTION FOUR**

You are an Attorney in the law firm Mavuso & Company. Your client, Swaziland Building Society instituted legal proceedings against the Defendant, Melusi Senzo Manana for money lent and advanced to him. The said Defendant has served you with a Notice of Intention to Defend as well as a plea. When perusing through the plea, you fail to ascertain the defence.

- (a) What procedure would you advise your client to follow and why?  
(2 marks)
- (b) Inventing the necessary particulars, draft the court process that you would serve on the Defendant.  
(16 marks)
- (c) Assuming the Defendant had failed to serve your client with the plea within the time he was required to do so, what procedure would you advise your client to follow and why?  
(2 marks)

**[Total: 20 Marks]**