

UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, MAY 2009

TITLE OF PAPER : **TRIAL PRACTICE**

COURSE CODE : **L 403/L602**

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

INSTRUCTIONS : **ANSWER ALL QUESTIONS.**

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

QUESTION 1

You are an attorney in the law firm Mabuza & Associates and represent Plaintiff in an action. Plaintiff, a cleaning company, entered into a written contract on the 31st December 2007 with Defendant, a supermarket carrying on business at Matsapha. The Plaintiff was to provide cleaning services to Defendant's premises for a sum of E9,700.00 per month, beginning in January 2008. Plaintiff performed her part of the contract from January 2008 to December 2008. Defendant paid only for the months of January to April. Plaintiff has instructed you to claim the amount owing by Defendant. You have issued simple summons against the Defendant, who has since served you with a Notice of Intention to Defend. Upon receipt of the Notice of Intention to Defend, your client's representative instructs you that he believes Defendant has no defence to the action, but has served the Notice solely to delay the proceedings.

- a) Inventing the necessary particulars, draft the pleading that is required from your client at this stage of the proceedings. (36 marks)
- b) Advise your client on the procedure that he may follow after serving Defendant with the pleading you drafted in (a) above, citing relevant authority. (2 marks)
- c) Inventing the necessary particulars, draft the pleading you would serve on the Defendant in line with the procedures you stated in (b) above. (12 marks)

[Total: 50 marks]

QUESTION 2

Your client, the Defendant is served with a combined summons. According to the Particulars of Claim, the Plaintiff, Melusi Petros Simelane claims for damages arising from arrest and detention by members of the Royal Swaziland Police Force. The Plaintiff does not allege in his Particulars of Claim that Defendant acted unlawfully.

- a) Advise your client on the step to take under the circumstances, citing relevant authority. (5 marks)
- b) Inventing the necessary particulars, draft the court process that you would serve on the Plaintiff based on your advice to client. (20 marks)

[Total: 25 marks]

QUESTION 3

- a) Inventing the necessary particulars, draft a charge in respect of Mavukutfu Simelane and Mtsambama Fakudze who were arrested by Hlathikhulu Police for crime of House breaking with intent to steal and theft. (12 marks)
- b) Inventing the necessary particulars, draft a charge in respect of Mlandvo Simelane who was arrested by Mbabane Police for the crime of Culpable Homicide arising from a car accident. (13 marks)
- [Total: 25 marks]**