

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION

DEPARTMENT OF LAW

MAIN EXAMINATION MAY, 2011

TITLE OF PAPER : CIVIL PROCEDURE

COURSE : DL 032

MARKS : 100

TIME ALLOWED : THREE HOURS

INSTRUCTIONS :

- (A) ANSWER ANY FOUR (4) QUESTIONS**
- (B) ADDITIONAL MARKS WILL BE GIVEN FOR USE OF CASE-LAW WHERE APPROPRIATE.**

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

QUESTION ONE

- (a) Discuss what is meant by the term “locus standi”. [5]
- (b) Identify and briefly discuss the people who lack locus standi [10]
- (c) Discuss what is meant by the term “joinder of parties”. [5]
- (d) Discuss what is meant by the term “joinder of causes of action] [5]

[TOTAL MARKS: 25]

QUESTION TWO

- (a) Outline the difference between Criminal Procedure and Civil procedure. [10]
- (b) What is the test for applying the difference between action and application procedure? [10]
- (c) When does a ‘dispute of fact’ arise? (Discuss 3 instances). [6]
- (d) What may a court do where a real dispute of fact arose? [4]

[TOTAL MARKS 25]

QUESTION THREE

- (a) What is a liquidated demand? [3]
- (b) Which summons can be used for liquidated demands? [2]
- (c) Give examples of claims that may be sued by way of simple summons. [5]
- (d) What is an unliquidated demand? [3]
- (e) Which summons can be used to sue for unliquidated claim? [2]
- (f) Outline the contents of the summons. [10]

[TOTAL MARKS 25]

QUESTION FOUR

- What is a declaration? [10]
- What is an exception? [2]
- What are the grounds for an exception? [4]

- Distinguish between an exception and an application to strike out. [4]
- When must an exception be raised. [4]
- What must an exception state and contain. [3]
- [TOTAL MARKS: 25]

QUESTION 5

- (a) When should a litigant/claimant approach the court by way of application? [5]
- (b) What documents must accompany a claim brought by a way of application? [5]
- (c) Discuss the format of application. [2]
- [TOTAL MARKS: 25]

QUESTION 6

- (a) What is an interpleader Notice? [2]
- (b) Who issues an Interpleader Notice. [2]
- (c) What must the interpleader notice state? [6]
- (d) What document must accompany the interpleader notice. [2]
- (e) What must be stated in the document accompanying the interpleader notice. [10]
- [TOTAL MARKS: 25]

QUESTION 7

- (a) What is a Notice of bar? [2]
- (b) Who should file a Notice of bar. [4]
- (c) What steps must the party who has been served with a Notice of bar take. [2]
- (d) What is a plea? [2]
- (e) Who must file a plea? [2]
- (f) What is a special plea? [2]
- (g) What is a dilatory special plea? [2]
- (h) Name and discuss three (3) types of dilatory special pleas. [6]
- [TOTAL MARKS: 25]