

UNIVERSITY OF SWAZILAND

206

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2011

TITLE OF PAPER : CIVIL PROCEDURE

COURSE CODE : L401

TIME ALLOWED : 3 HOURS

INSTRUCTIONS

- (1) ANSWER ALL FOUR (4) QUESTIONS
- (2) MARKS FOR QUESTIONS OR PARTS OF A QUESTION ARE SHOWN IN BRACKETS

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**QUESTION 1**

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(a) Explain what is meant by *locus standi in judicio*.

[5 marks]

(b) Before an entity can have *locus standi in judicio*, it must first satisfy a number of legal requirements. Discuss these requirements in detail with reference to relevant decided cases.

[20 marks]

**Total: [25 Marks]**

**QUESTION 2**

Q issues Summons against R for damages based on a breach of contract. R defends the action.

With these facts in mind answer the following questions giving reasons for each answer.

(i) Should Q issue a Simple or Combined Summons and why?

[5 marks]

(ii) Name the document R must use to indicate to Q that he wishes to defend the action.

[5 marks]

(iii) What pleading must R use to raise his defence?

[5 marks]

(iv) Name the pleading that R may file simultaneously with the pleading mentioned in (iii) above, if he also has a claim against Q.

[5 marks]

(v) How should R respond if the contract stated that if any dispute arises between the parties both parties must submit to arbitrations?

[5 marks]

**QUESTIONS 3**

You are representing the Defendant in the following civil matters. Give full reasons and legal authority for the procedure that you would advise in the following circumstances:

- (i) The Plaintiff's Summons in an action for the return of a motor vehicle sold under a written hire-purchase agreement does not allege a breach of contract. No copy of the agreement is attached to the Summons.

[10 marks]

- (ii) The Deputy Sheriff has attached the Defendant's motor vehicle which is still subject to a lease agreement which the Defendant has with Wesbank.

[10 marks]

- (iii) The Summons were served on the Defendant's fourteen year old son.

[5 marks]

**Total: [25 Marks]**

**QUESTIONS 4**

- (a) What requirements does an Applicant need to satisfy in an application to found or confirm jurisdiction?

[15 marks]

- (b) What factors may result in the discharge of the attachment or arrest?

[10 marks]

**Total: [25 marks]**