

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER, DECEMBER 2012

TITLE OF PAPER : CIVIL PROCEDURE

COURSE CODE : IDE- DL 032

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : 1. ANSWER ANY FOUR (4) QUESTIONS

2. CAREFULLY READ AND UNDERSTAND THE QUESTIONS

3. PUT YOUR THOUGHTS IN AN ORGANISED MANNER WITH YOUR
ANSWERS

THIS PAPER SHOULD NOT BE OPENED UNTIL PERMISSION HAS BEEN GIVEN BY THE
INVIGILATOR

QUESTION 1

Write short notes on what the following mean:

- a) Jurisdiction. (5)
- b) Locus standi in judicio. (5)
- c) Pleadings. (5)
- d) Action proceedings. (5)
- e) Affidavit. (5)

(25)

QUESTION 2

The traditional principles of standing have been said to be narrow and limiting in so far as accessibility to courts is concerned. A more liberal and less limiting approach is advocated for as being more in line with wide accessibility.

- a) Discuss what the traditional principles to standing are. (12.5)
- b) Indicate where in the Swaziland Constitution of 2005 the more liberal principles are to be found and explain what they are? (12.5)

(25)

QUESTION 3

- a) Distinguish between substantive law and procedural or adjectival law and state what questions are sought to be answered by each one of them. (10)
- b) Give examples of substantive and procedural law. (5)

c)

- i. What do you understand when it is said a court has inherent jurisdiction? (2)
 - ii. Which court in Swaziland has inherent jurisdiction (1) and where does it derive it from? (3)
- d) A magistrates' court is referred to as a creature of statute. What does this mean in relation to its jurisdiction? (5)

(25)

QUESTION 4

The 2005 Constitution is said to have brought sweeping changes on the length and breadth of the legal scene in Swaziland. Dealing with the legal status of parties, particularly women and children, discuss the changes in respect to Civil Procedure.

(25)

QUESTION 5

- a) List at least three matters that are placed beyond, or excluded, from the jurisdiction of the High Court. (5)
- b) List three matters that are placed, or excluded, from the jurisdiction of a Magistrates' Court. (5)
- c) Explain the function of pleadings. (5)
- d) Which officer is responsible for effecting service: in respect of the High Court process and in respect of a Magistrates' Court process? (5)

e) Explain what a simple or ordinary summons and a combined summons are? (5)

(25)

QUESTION 6

a) Once judgment has been pronounced by a court, or an order made, there has to be enforcement.

i. What is the process through which enforcement is put into effect? (3)

ii. Who is the officer responsible for carrying it out? (3)

iii. Name the two kinds of judgments that are recognized in law and how each one is enforced. (6.5)

b)

i. Draw a distinction between an appeal and a review (6.5)

ii. When are appeal proceedings the proper course to follow? (3)

iii. When are review proceedings the proper course to follow? (3)

(25)