

UNIVERSITY OF SWAZILAND

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INSTITUTE OF DISTANCE EDUCATION

DIPLOMA IN LAW

MAIN EXAMINATION PAPER DECEMBER 2013

TITLE OF PAPER : **CIVIL PROCEDURE**

COURSE CODE : **DL032**

TIME : **THREE (3) HOURS**

INSTRUCTIONS : **1. ANSWER QUESTION 1**
(QUESTION 1 CARRIES 40 MARKS)

AND

2. ANY OTHER THREE QUESTIONS
(QUESTIONS 2-5 CARRY 20 MARKS
EACH)

TOTAL MARKS : **100**

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

QUESTION 1

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- a. Action proceedings involve various court processes, from inception to close of proceedings, to be filed in accordance to the Rules of the High Court, 1954. Outline in detail the documents in respect of action proceedings, that must be filed and the order in which they should be filed. **[15 Marks]**

Write brief notes on the following:

- b. Combined Summons and Simple Summons. **[5 Marks]**
c. Notice of Intention to Defend. **[5 Marks]**
d. Plea and Counterclaim **[5 Marks]**
e. Replication and Rejoinder **[5 Marks]**
f. Close of proceedings **[5 Marks]**
- [40 Marks]**

QUESTION 2

- a. What is meant by “creature of statute”? **[3 Marks]**
- b. Briefly explain three differences between an Application and Summons. **[6 Marks]**
- c. What is “edictal citation”? **[2 Marks]**
Defined what it is and under what circumstances it may be required.
- d. Why is it important to discover documents? **[2 Marks]**
- e. What are the two grounds on which an exception may be made? **[4 Marks]**
- f. Name three characteristics of a power of Attorney. **[3 Marks]**

[20 Marks]

QUESTION 3

a. Describe the scope and jurisdiction of the Swazi Courts.

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[10 Marks]

b. Explain the term '*dispute of fact*' with reference to decided cases. [10 Marks]

[20 Marks]

QUESTION 4

a. Explain the concept of "Substituted Service" and distinguish it from normal service.

[6 Marks]

b. Describe the form and content of an Affidavit.

[14 Marks]

[20 Marks]

QUESTION 5

Describe the circumstances under which "rescission of judgment" may be granted.

[20 Marks]