

UNIVERSITY OF SWAZILAND

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FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2014

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 THEREOF  
ARE INDICATED IN BRACKETS

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**QUESTION 1**

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Rantie Putsoa is a male of South African origin having been born in Pretoria and got married to Nontokozo Mabuza of Ngwane Park in Manzini. Their marriage was celebrated at the Pretoria City Hall in 2004, this having been their common domicile at the time of the marriage and it was by civil rites and with an antenuptial contract. Between 2004 and 2008 whilst still living in Pretoria, Rantie executed a will detailing how he wanted his assets to be distributed after his death. The couple remained in Pretoria until 2009 after which they relocated to Swaziland. By 2010 the couple had become domiciliaries of Nhlanguano in the Shiselweni region. Early in 2014 Rantie met his untimely death in a motor vehicle accident while driving home to Nhlanguano. His will has become the subject of an intense debate because of some unclear and contentious provisions. Nontokozo has approached you for legal advice. Advise her accordingly in relation to the following issues:

1. Which court is vested with jurisdiction to hear and determine issues pertaining to the interpretation of Rantie's will?

[12 marks]

2. Which jurisdictional principles are at play in this matter?

[10 marks]

3. Name the ingredients of the concept of *locus standi in judicio*?

[12 marks]

**Total Marks: [34 MARKS]**

## **QUESTION 2**

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Action proceedings effectively begin as soon as the Defendant has been served with the court process instituting the action. Unlike motion proceedings, there is no way action proceedings can be brought before a court of law unless the Defendant has been served with the relevant process or pleading. The foregoing demonstrates the significance of service of court process in civil litigation.

Discuss the different means through which service of court process can be effected upon a natural person. Supporting your answer with legal authority is a compulsory.

**[26 marks]**

## **QUESTION 3**

Discuss the 5 (five) major determinants of civil jurisdiction as exercised by the courts in Swaziland.

**[25 marks]**

## **QUESTION 4**

Urgent applications are usually brought on the basis that the relief sought is so urgent that the ordinary provisions of the Court rules in relation to time, notice and service of process cannot be complied with; rather they need to be dispensed with. However, an Applicant may not create urgency by waiting too long to act so that the ordinary rules should be dispensed with. Discuss the requirements which must be met before relief pursuant to an urgent application may be granted.

**[25 marks]**

**Total Possible Marks: [110]**