

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2018

TITLE OF PAPER: TRIAL PRACTICE

COURSE CODE: L403

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

- (a) Discuss the nature, purpose and the circumstances under which the High Court may grant judgement by default. As part of this discussion you are required to specify the pertinent rule in this regard. [15 marks]
- (b) Narrate the circumstances under which a party to actions proceedings may apply for the grant of the extra-ordinary judgement generally known as summary judgement). Which rules governs this procedure under the High Court rules? [10 marks]

Total: [25 marks]

QUESTION 2

- (a) Irregular proceedings
- (b) A special plea
- (c) An exception
- (d) Points in *limine*
- (e) Application to strike out

With regards to the abovementioned court procedures, do the following:-

- (i) Explain the nature of the court procedure and the circumstances under which it may be used;
- (ii) Indicate the proceedings in which it may be applicable;
- (iii) State the court rule regulating the court procedure in question;
- (iv) State the effect it has on the entire proceedings in the event the procedure is invoked successfully.

[25 marks]

QUESTION 3

Discuss the requirements for pleading where a party is suing for damages arising from personal. [25 marks]

QUESTION 4

Briefly discuss the following:

- (a) Assuming the Defendant has not delivered a counterclaim with his or her plea, against which pleadings may further particulars be requested in those proceedings? [5 marks]
- (b) What is meant by the close of pleadings? [5 marks]
- (c) What does the preparatory of trial stage in action proceedings entail? [5 marks]
- (d) What are the different types of costs available in civil litigation? [5 marks]
- (e) Explain what is meant by the Latin maxim *dies indicuae*. [5 marks]

Total: [25 marks]

Possible attainable marks: [100]