

University of Swaziland – Institute of Distance Education

IDE – DL 032 – Civil Procedure

2018/19 Examination (Supplementary) Paper

Instructions

1. Answer ANY **5 questions**. Please note the marks allocation per question so that you will be able to understand the amount of time you should spend on each question. Total marks are 100.
2. Where you are required to make reference to legislation, you need to be specific about the statute and the section. The reference to the section should also be related.

Question 1

The Rule of the High Court provide for taxing a bill, summary judgment and default judgment, in Rule 68, 32 and 31, respectively.

- a. In respect to taxation of a bill, what are the taxing Master's responsibilities? [8 marks]
- b. As far as judgments are concerned, how are summary judgments different from default judgments? [7 marks]
- c. Briefly discuss 'party and party costs'. [5 marks]

Question 2

Once a case has been concluded, ordinarily it may not be opened. There are however circumstances under which a closed case may be open. Discuss the court's considerations in deciding whether or not to open a closed case. [20 marks]

Question 3

Draft a Combined summons for the following facts. Where necessary the facts may be added on to make sense and make the combined summons relatable to real life circumstance. You are drafting these combined summons as an attorney having been instructed by your client. Ensure to include the required details for address and spaces for signatures where required. The facts are as follows:

1. Sizwe is a 2nd year student at the University of Swaziland.
2. He was enrolled to study the LLB course under the Social Science Programme.
3. He is 22 years old.
4. In 2016 he was repeating the Roman Law course because he had failed it in 2015. This is shown in his results as issued by the University.
5. In July 2017 he was informed by the Registrar that he would, for the academic year 2017, have to repeat the Customary Law course, as that was the actual course failed in 2015 and the course that should have been repeated in 2016, not the Roman law.
6. Sizwe has further been informed that he will be cut off, indefinitely, from the running for a Government Scholarship, mainly because, as per the interpretation of the scholarship board of the letter from the Registrar of the University, Sizwe had failed 2 years in a row.

7. Sizwe is a son of the Member of Parliament for the Ludzeludze constituency. He does not require to be accommodated on campus.
8. Sizwe therefore wants to sue the university as he feels he has suffered damages. He instructs you.

[20 marks]

Question 4

1. Define and briefly discuss the sequence of affidavits in application proceedings. [5 marks]
2. What differentiates action proceedings from application proceeding? [5 marks]
3. What are the main features of application proceeding pleading documents? [10 marks]

Question 5

Power of attorney, capacity (*Locus Standi*) and Jurisdiction are preliminary aspects of Civil Procedure. You are required, using necessary reference to specific Rules of Court, describe each concept and how it is essential in Civil procedure. Do not exceed 2 pages. [20 marks]

Question 6

The Rule of the Courts for the Magistrates Court and the High Court define the requirements for service. Discuss either the Magistrate's court or the High Court process for service of notice. [20 marks]

Question 7

Discuss the jurisdiction in:

1. The Swazi court
2. High court

[20 marks]