

**UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
(IDE)
SUPPLEMENTARY EXAMINATION PAPER
JULY, 2019**

**TITLE OF PAPER: LEGAL DRAFTING
COURSE CODE: LAW208 (IDE)
TIME ALLOWED: THREE (3) HOURS
INSTRUCTIONS: ANSWER ANY FOUR QUESTIONS**

**DO NOT OPEN THE QUESTION PAPER UNTIL PERMISSION HAS
BEEN GIVEN BY THE INVIGILATOR**

Question One

You are an Attorney in the law firm of Lumumba & Co. Your client, Sizwe Simelane instructs you that his motor vehicle to wit a Toyota Corrolla 1.6 SD 888 NG collided with a motor vehicle to wit a Nissan Bakkie belonging to the Ministry of Natural Resources & Energy SG 001 NR driven by one Kenneth Msibi. Further, you are instructed that the collision was caused by the sole negligence of the said Msibi who failed to stop at a red traffic light. Your client further instructs you that his motor vehicle was damaged extensively, hence damages amounted to E80,843.00, being the reasonable and necessary cost of repairs.

- (a) State the form of proceedings that you would institute and the Court Process that you would file in order to recover damages on behalf of your client.

[2 Marks]

- (b) Against whom would you institute the legal proceedings? [1 Mark]

- (c) What is the procedural step that you would take before instituting the legal proceedings? [2 Marks]

- (d) Draft the Particulars of Claim that you would serve on the Defendant.

[20 Marks]

[25 Marks]

Question Two

Explain the following terms in relation to the proceedings in which they are applicable

(a) Applicant. [5 marks]

(b) Respondent. [5 marks]

(c) Plaintiff. [5 marks]

(d) Defendant. [5 marks]

(e) Appellant. [5 marks]

[25 marks]

Question Three

Sipho Dlamini has been served with an ordinary Notice of Motion. He instructs you to oppose the application.

- (a) Draft the Notice of Intention to Oppose the application. [5 marks]

- (b) State the pleading that is required from your client after delivering the Notice of Intention to Oppose. [5 marks]

- (c) State the time limit within which your client is required to deliver the pleading you stated in (b) above. [5 marks]

- (d) Assuming your client had been served with a combined summons, and your instructions were to defend the action, what Notice would you deliver to the Plaintiff? [5 marks]

- (e) State the pleading that would be required from your client after delivering the Notice you stated in (d) above. [5 marks]

- (f) State the time limit within which your client is required to deliver the pleading you stated in (e) above. [5 marks]

[25MARKS]

Question Four

- (a) Using your own facts draft the offence of unlawful stalking in terms of the Sexual Offences and Domestic Violence Act, 2018. [10 marks]

- (b) List the essential elements for the common law offence of Robbery. [15 Marks]

[25 MARKS]

Question Five

The Sihhoye Police Service have arrested Mr Gangenyoni Mdluli for being found in possession of a 12-bore shot gun, serial number xr567 and ten rounds of ammunition without a valid licence.

Assuming that you are a Crown Prosecutor draft the charge-sheet to be used in Court during the prosecution of the Mr. Mdluli. **[25 Marks]**

Question Six

(a) You are an Attorney in the law firm of IDE Attorneys. Your client Mabhadi Vilakati instructs you that he was unlawfully arrested by the members of the Royal Eswatini Police for the offence of Rape. He further instructs you that whilst in custody of the Police the members of the Police Service would occasionally assault and suffocate him in an attempt to force him to admit having committed the said offence. After spending eight months in jail the prosecution withdrew all charges against him for lack of evidence. He now instructs you to demand from the Police the sum E2 000 000-00. Adding your own facts draft the document that will precede the legal proceedings. **[10 Marks]**

(b) After serving the document that precedes the legal proceedings and after the expiration of the statutory period, draft the succeeding court process. You may add your own facts. **[15Marks]**
[25Marks]

Question Seven

(a) Explain what is a general Power of Attorney and where is it required? **[10 Marks]**

(b) Using your own fact draft a general Power of Attorney **[15 Marks]**
[25 MARKS]