



**UNIVERSITY OF ESWATINI  
INSTITUTE OF DISTANCE EDUCATION  
DIPLOMA IN LAW  
FINAL EXAMINATION PAPER NOVEMBER 2019**

**Title:** Civil Procedure

**Course Code:** DL032

**Time Allowed:** 3 hours

**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.
3. Cases and foreign words should be underlined.

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BEEN GIVEN BY THE INVIGILATOR.**

### Question 1

1. Differentiate between costs payable between attorney-and-own-client and party to party costs. [10 marks]
2. What is your understanding of the terms and process applicable in the variation of a judgment?
3. Describe a judgment *ad factum praestadum*. [5 marks]

### Question 2

In terms of Rule 31 of the High Court Rules, where judgments by confession are provided for, there are requirements that have to be met to obtain such judgments. Describe them briefly. [20 marks]

### Question 3

You are a candidate for being an interpreter for the Chief Justice at the High Court of Swaziland. The Chief Justice is a particular man and he would like to hire someone who knows civil procedure. He therefore has asked all candidates for the position to write up a report. The report requires you to DISCUSS the following, where there are similarities and differences, clearly illustrate them.

1. Power of attorney.
2. Capacity (*locus standi judicio*).
3. The sources of civil procedure.

[20 marks]

### Question 4

Briefly describe the concepts below.

- a. Magistrates court jurisdiction in respect to persons [10 marks]

b. Service of court process in the High Court

[10 marks]

### Question 5

In the trial stage there are sequential examinations of witnesses. As an attorney, would you describe for a lay person how the examinations of witnesses are directed.

[20 marks]

### Question 6

In application proceeding, a dispute of fact is the determining fact for the choice of such proceedings. Describe the following types of processes in application proceeding

- a. Ex Parte application
- b. Interlocutory application
- c. *Rule nisi*
- d. Urgent application

[20 marks]

### Question 7

Describe the pre-trial stage. Your discussion should include the following;

- a. Request for further particulars. When and why are they required?
- b. The pre-trial conference. What is it intended to achieve?
- c. Discovery of documents. Why is it necessary?
- d. Inspection, specification and production of documents and tapes.
- e. Set down for trial.

[20 marks]