



**UNIVERSITY OF ESWATINI  
INSTITUTE OF DISTANCE EDUCATION  
DIPLOMA IN LAW  
FINAL EXAMINATION PAPER AUGUST 2020**

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<b>TITLE OF PAPER:</b>	<b>LEGAL DRAFTING OF STATUTES</b>
<b>COURSE CODE:</b>	<b>IDE-LAW208</b>
<b>TIME ALLOWED:</b>	<b>THREE (3) HOURS</b>
<b>INSTRUCTIONS:</b>	<b>ANSWER ANY FOUR QUESTIONS</b>

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

### **QUESTION ONE**

Discuss Fowlers "Principles of Legal Drafting" as analysed by *Cs Naina Jindal* and the Seventeen Rules of Legal Drafting as discoursed by *Peter Nash Swisher*.

Elucidate your discussion with examples.

### **QUESTION TWO**

Shortly after having been granted leave to defend the matter your client, Joe Sample, hands you a letter received from estate agents Yakha Estate Agents (Pty) Ltd, of 6th Street, Avenue Lane, Mbabane. In the letter they claim that they introduced the buyer to the property and they demand payment of the sum of E200,000 as agreed upon commission. Your client acknowledges that he gave them instructions at some stage. He again confirms that he also gave instructions to Atidlekhaya Estate Agents (Pty) Ltd, of 240 Matjolo Road, Mbabane and that he is aware of the fact that both these agencies introduced various parties to the property. He is willing and able to pay the commission but has no way of determining who should be paid. The buyer is of no help in this regard as he now admits he was introduced to the property through an estate agent but avers that he cannot remember which agent introduced him to the property. Your client is thus faced with adverse claims.

a) What will you advise your client to do in the circumstances?

[5 Marks]

b) Draft the necessary papers to give effect to your advice.

[20 Marks]

### **QUESTION THREE**

(a) What are summons?

[5 Marks]

(b) State the types of summons and state the proceeding in which each type is used

[5 Marks]

- (c) What is a Demand and in what form does it usually take? [5 Marks]  
(d) Which party usually issues a Demand and against whom? [5 Marks]  
(e) What are the essentials of a Demand? [5 Marks]

**[25 Marks]**

#### **QUESTION FOUR**

- (a) According to section 2 of the *Wills Act No, 22 of 1955*, a Will includes any testamentary instrument or Act. Discuss the formalities required in execution of a valid Will as per section 3 of the Will Act, 1955.

[10 Marks]

- (b) Using your facts draft a Will.

[15 Marks]

**[25 Marks]**

#### **QUESTION FIVE**

- (a) Explain the following terms in relation to the proceedings in which they are applicable
- (i) Applicant; [5 marks]
  - (ii) Respondent; [5 marks]
  - (iii) Plaintiff; [5 marks]
  - (iv) Defendant; [5 marks]
- (b) "Competent witness" in terms of the Wills Act, 1955. [5 marks]

**[25 marks]**

#### **QUESTION SIX**

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. [10 marks]
- (b) State the pleading that is required from your client after delivering the Notice of Intention to Oppose; [3 marks]
- (c) State the time limit within which your client is required to deliver the pleading you stated in (b) above; [3 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?; [3 marks]
- (e) State the pleading that would be required from your client after delivering the Notice you stated in (d) above; [3 marks]
- (f) State the time limit within which your client is required to deliver the pleading you stated in (e) above; [3 marks]

**[MARKS 25]**

**QUESTION SEVEN**

- (a) What is a common law crime? [2 Marks]
- (b) What is a Statutory offence? [3 marks]
- (c) Define the offence of Rape under Common Law [5 Marks]
- (d) Using your own facts draft the charge sheet for the common law crime of Rape [7 Marks]
- (e) Define the offence Rape as per section of the Sexual Offences and Domestic Violence Act, 2018 [3 Marks]
- (f) Using your own facts draft a charge sheet for the crime of Murder [5 Marks]

**[25 MARKS]**