

**UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE**

INSTITUTE OF DISTANCE EDUCATION

DIPLOMA IN LAW

MAIN EXAMINATION PAPER

TITLE OF PAPER: CIVIL PROCEDURE

COURSE CODE: L401

TIME ALLOWED: 3 HOURS

INSTRUCTIONS: (1) ANSWER ALL FOUR (4) QUESTIONS

**(2) MARKS FOR QUESTIONS OR PARTS
THEREOF ARE INDICATED IN BRACKETS**

**THIS PAPER MAY NOT BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE INVIGILATOR**

QUESTION 1

- (a) What is the distinction between Action proceedings and Motion (Application) proceedings? **[5 MARKS]**
- (b) With reference to relevant statutory provisions, write short notes on the Jurisdiction of the following Courts:
- I. Magistrates Court **[8 MARKS]**
 - II. High Court **[4 MARKS]**
 - III. Supreme Court **[4 MARKS]**
 - IV. Swazi Court **[4 MARKS]**

In your answer highlight any statutory limitations to each Courts Jurisdiction.

TOTAL [25 MARKS]

QUESTION 2

- (a) With reference to legal authority discuss the various form of service of Court processes and the various ways in which Court service may permissibly be effected. In your answer draw any distinctions that may exist in relation to service upon natural persons and legal persons. **[10 MARKS]**
- (b) Donald Mazibuko is served with a Court Order by the Deputy Sheriff directing him to pay Hilary Dlamini the sum of E50,000 (Fifty Thousand Emalngeni) in respect of a debt owed pursuant to a default application granted against him. Donald Dlamini disputes his indebtedness and further contends that he never received any Court summons in relation to the debt in question. What legal remedy is available to Donald Mazibuko if he chooses to contest the Court order and what specific constitutional right can he rely upon in a bid to enforce the legal remedy

[15 MARKS]
TOTAL [25 MARKS]

QUESTION 3

(a) With reference to any applicable legal authority, explain the following concepts and by way of brief example describe circumstances within which they may be applied:

- | | |
|----------------------------|-----------|
| I. Summary Judgment | [5 MARKS] |
| II. Default Judgment | [5 MARKS] |
| III. Recession Application | [5 MARKS] |

(b) With reference to any applicable legal authority describe and elucidate on the requirements a litigant that wants to institute an Urgent Application has to plead and satisfy.

[10 MARKS]
TOTAL [25 MARKS]

QUESTION 4

(a) Explain the following legal concepts and their applicability with the aid of illustrative examples:

- | | |
|---|-----------|
| I. <i>Ex turpi causa non oritur actio</i> | [5 MARKS] |
| II. Locus Standi in Judicio | [5 MARKS] |
| III. Incola and Peregrinus | [5 MARKS] |
| IV. Doctrine of Effectiveness | [5 MARKS] |
| V. Doctrine of Submission | [5 MARKS] |
| VI. | |

TOTAL [25 MARKS]

TOTAL POSSIBLE MARKS: [100]