



**UNIVERSITY OF ESWATINI  
INSTITUTE OF DISTANCE EDUCATION  
DIPLOMA IN LAW  
RESIT EXAMINATION PAPER SEPTEMBER 2021**

**TITLE OF PAPER: CIVIL PROCEDURE**

**COURSE CODE: IDE-LAW401**

**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) Discuss the jurisdiction of the Magistrates Court as relates to the following matters:

- I. Claims sounding in money [5 MARKS]
- II. Claims relating to property [5 MARKS]
- III. Status (Mental Capacity) [5 MARKS]
- IV. Divorce actions [5 MARKS]

(b) Discuss the doctrine of *ex turpi causa non oritur actio* and the effect it may have on the adjudication of a matter before court if raised as a defence to a claim before Court. [5 MARKS]

**TOTAL [25 MARKS]**

### Question 2

(a) Discuss what an Interdict is, the purpose of an Interdict and the different kinds of interdicts?

**[10 MARKS]**

(b) What are the requirements that an Applicant must plead in their founding affidavit and establish in an application for an interdict?

**[10 MARKS]**

(c) Briefly describe an instance when a spoliation would be an appropriate legal remedy and list the requirements that need to be met before a spoliation order can be granted.

**[5 MARKS]**

**TOTAL [25 MARKS]**

### Question 3

Briefly describe the purpose and/or and legal effect of the following documents used in civil procedure:

- I. Notice of Intention to defend/oppose [5 MARKS]
- II. Notice of Bar [5 MARKS]
- III. Notice of Exception [5 MARKS]
- IV. Notice of Abandonment [5 MARKS]
- V. Notice of Withdrawal [5 MARKS]

**TOTAL [25 MARKS]**

#### **Question 4**

- (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) 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]**

- (c) Briefly describe the difference between a liquid claim and an illiquid claim as pertains to claims sounding in money.

**[5 MARKS]**

**TOTAL [25 MARKS]**

TOTAL POSSIBLE MARKS: [100]