

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION JULY, 2011**

**TITLE OF PAPER : CIVIL PROCEDURE**

**COURSE : DL 032**

**MARKS : 100**

**TIME ALLOWED : THREE HOURS**

**INSTRUCTIONS :**

- (A) ANSWER ANY FOUR (4) QUESTIONS**
- (B) ADDITIONAL MARKS WILL BE GIVEN FOR USE OF CASE-LAW WHERE APPROPRIATE.**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR.**

**QUESTION ONE**

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- (a) The jurisdiction of the Magistrate Court is limited in some cases. Discuss. [15]
- (b) Briefly define the term “cause of action”. [10]
- [TOTAL MARKS: 25]

**QUESTION TWO**

- (a) Briefly indicate the differences between the action and application procedure. [15]
- (b) Give examples of instances where the use of action proceedings is mandatory. [3]
- (c) Give examples of relief that have to be requested by way of motion. [3]
- (d) Give examples of relief that is usually sought by means of application, but which may also be obtained by means of the action procedure. [4]
- [TOTAL MARKS: 25]

**QUESTION THREE**

- (a) Distinguish between and discuss three kinds of summonses in the High Court. [6]
- (b) Who issues summons? [2]
- (c) When is a summons issued under normal circumstances? [3]
- (d) Who must sign simple summons? [2]
- (e) Who must sign combined summons? [2]
- (f) Write notes on the form, format and style of pleadings. [10]
- [TOTAL MARKS: 25]

**QUESTION FOUR**

- (a) What does the expression “application” or “motion” refer to? [4]
- What does an “application” or “motion” consist of?
- (b) In how many ways may applications be brought? [4]

- (c) Identify and discuss the different types of applications. [12]
- (d) Set out the format of application. [5]

[TOTAL MARKS: 25]

#### **QUESTION 5**

- (a) What is meant by service of court process? [2]
- (b) Whose duty is it to serve summons at the Magistrate's Court? [2]
- (c) Whose duty is it to serve summons at the High Court? [2]
- (d) Who can serve application process? [2]
- (e) What document must the person who has served summons prepare after service? [2]
- (f) What should the person who serves the summons state in the document? [5]
- (g) What is an edictal citation? [5]
- (h) What is substituted service? [5]

[TOTAL 25 MARKS]

#### **QUESTION 6**

Discuss an appeal and a review. Highlight the differences between the two.

[TOTAL MARKS 25]

#### **QUESTION 7**

- (a) Outline the stages in:
  - (i) action/summons proceedings and; [5]
  - (ii) application proceedings [5]
- (b) What must a founding affidavit contain? [10]
- (c) What should affidavits not contain? [5]

[TOTAL 25 MARKS]