

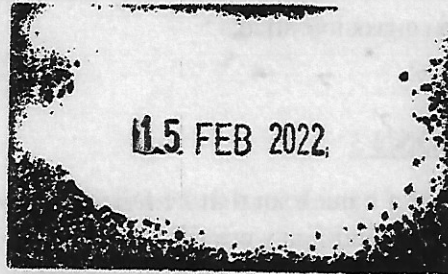


ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 208
COURSE TITLE : CIVIL PROCEDURE - LLB 208 (2) 2022
DURATION : 3 Hours
LEVEL : 2.1
DATE :



INSTRUCTIONS TO CANDIDATES:

1. This exam is out of 100.
2. Answer **all** questions.
3. Notes, handouts and textbooks **are not** allowed into the examination.
4. Cellphones **are not** allowed into the examination room.
5. Begin each answer to a full question on a fresh page.
6. **Material allowed in exam**
 - i. Magistrates Court Rules, 2018;
 - ii. Magistrates Court Acts [Chapter 7:10];
 - iii. Customary Law and Local Courts Act [Chapter 7:05];
 - iv. Customary Law and Local Courts (Amendment), Rules 2009;

QUESTION 1

Mr Simango issued summons against Peter for delictual damages arising out of a motor vehicle accident. Peter duly entered an appearance to defend the action. He further filed a plea in which he stated in a single sentence the following words:

“Every averment of fact contained in the plaintiff’s summons is denied”.

Mr Simango was served with Peter’s plea. He has now approached you as he does not understand how to proceed.

Required

Advise Mr Simango on how he should proceed in the above matter. [15 marks]

QUESTION 2

Discuss the role of the magistrates’ court in ensuring that proceedings in community courts do not lead to gross injustice. [25 marks]

QUESTION 3

Jabulani got a bank loan that he failed to repay to the bank. The bank issued summons against him. All the pleadings were filed but he failed to attend the pre-trial conference which resulted in a default judgment in favour of the bank. Jabulani is employed by Zvakwana (Pvt) Ltd and he uses the company’s car. As he was drinking beer, the messenger of court came and attached the company’s car.

Required

Advise Zvakwana (Pvt) Ltd and Jabulani on the procedures they should follow in order to solve issues raised in the above matter. You should clearly identify the relevant parties in each chosen procedure. [15 marks]

QUESTION 4

‘The maintenance procedure is clearly designed for the underprivileged but deserving litigants.’ Discuss [25 marks]

QUESTION 5

Explain the following terms;

- a) Referral of a matter (2)
- b) *Lis pendens* (2)
- c) Dilatory plea (2)
- d) Offer in settlement (2)