



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 308
COURSE TITLE : Civil Procedure (Superior Courts)
DURATION : 3 Hours
LEVEL : 3.2
DATE : 20 JAN 2023

INSTRUCTIONS TO CANDIDATES:

1. This question paper comprises of two printed pages.
2. This question paper comprise of four questions.
3. Answer all questions.
4. Start each question on a new page of your answer sheet

Question 1

Distinguish between the following:-

- a) A Mandatory and Prohibitory Interdict. (4 marks)
- b) A Final and Temporary Interdict. (4 marks)

Question 2

What is an Ex parte Application and under what circumstances does one approach the court Ex parte? (3 marks)

Question 3

What factors do you consider in deciding whether to institute proceedings by way of action or application? (3 marks)

Question 4

Distinguish between the jurisdictional limits of the Magistrates Court on the one hand and the High Court on the other hand in respect of Civil matters. (6 marks)

Question 5

- a) What is a garnishee order? (3 marks)
- b) Explain the purpose of:-
 - ii) A Pre- Trial Conference (3 marks)
 - ii) Discovery of documents (3 marks)

Question 6

Discuss the approach of the courts when determining whether an application filed as an Urgent Chamber Application is in fact urgent. (4 marks)

Question 7

Can a High Court decision dismissing an Application for Stay of Execution be appealed against? Cite the relevant authority for your answer. (4 marks)

Question 8

Under what circumstances may the Defendant lead evidence first in a Trial? (5 marks)

Question 9

Explain the difference between an Appeal and a Review. (4 marks)

Question 10

What is Substituted Service and under what circumstances do you apply for it? (5 marks)

Question 11

(a) What are the two (2) different reasons for which Further Particulars may be sought/ requested? (2 marks)

(b) Under what circumstances may a party refuse to avail requested Further Particulars? (3 marks)

Question 12

In terms of Practice Directive 1 of 2014 as amended, who has authority to effect service of a notice of set down in the High Court? (2 marks)

Question 13

(a) What are the principles that guide the High Court for Rescission of Judgment? (5 marks)

(b) What is the reply to the Defendant's Plea in the High Court called and how long after service of the Defendant's Plea can one file this? (2 marks)

Question 14

What is dies induciae? (3 marks)

Question 15

You represent a Plaintiff who has won a judgment in the High Court. The losing party has noted an appeal in the Supreme Court against the judgment.

a) what, in that event, is the status of the High Court judgment? (2 marks)

b) What do you do to enable your client to obtain relief pending the appeal if at all? (3 marks)

c) What principles guide the court in determining the said application? (6 marks)

d) If such application is dismissed, what recourse if any does your client have? (4 marks)

Question 16

What does the term locus standi in judicio mean? (3 marks)

Question 17

State two categories of Special Plea (2 marks)

Question 18

What does a Defendant who has been served with a Summons by a Plaintiff and has himself a claim against the Plaintiff do? (2 marks)

Question 19

What sort of property is excluded from execution by way of a Writ of Execution? (5 marks)

Question 20

What is meant by superannuation of judgment? (5 marks)

END OF EXAMINATION