



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 224
COURSE TITLE : CIVIL PROCEDURE- (2) 2022
DURATION : 3 Hours
LEVEL : 2.2
DATE : 30 DEC 2022

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 Dube has issued summons against Peter for delictual damages arising out of a motor vehicle accident. Peter relocated to South Africa in February 2022. Mr Dube intends to serve him in South Africa since his address is known.

Required

Advise Mr Dube on the steps that he should follow in order to effect a valid service on Peter.

[15 marks]

QUESTION 2

“The intervention of the magistrate courts in customary matters that have been determined by community courts is a potential source of injustice since they may not fully understand customary law” Discuss the role of the magistrate in the light of the above statement

[25 marks]

QUESTION 3

Chionde Bank advanced a loan to James in 2020. James signed an acknowledgement that he had received the money. The loan was deposited into his account. James failed to repay the loan when it became due. Chionde Bank issued summons against him. Soon after receiving the summons, James entered an appearance to defend.

Required

- i) Advise Chionde Bank on the remedies that are available to it in the above matter. (13)
- ii) Advise James on the options that are available to him following Chionde Bank’s action. (12)

[Total: 25 marks]

QUESTION 4

Discuss the ways in which the rules relating to the execution of a writ protect the constitutional rights of the judgment debtor.

[15 marks]

QUESTION 5

Explain the following terms;

- a) *Ex parte* application (2)
- b) *Maintenance pendente lite* (2)
- c) Taxation of costs (2)
- d) Plea in bar (2)
- e) Substituted service (2)

[Total: 10 marks]

QUESTION 6

Discuss the procedure for dealing with urgent applications in the magistrate court.
[10 marks]

END OF PAPER [100 marks]

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