



## ZIMBABWE EZEKIEL GUTI UNIVERSITY

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### FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

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#### DEPARTMENT OF LAW AND LEGAL SERVICES

#### EXAMINATION PAPER

MODULE CODE : LLB 224

MODULE TITLE : CIVIL PROCEDURE (1)

SPECIAL REQUIREMENTS:

DURATION : 3 HOURS

LEVEL : 2.2

DATE : 12 FEB 2024

#### 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**

Tatenda issued summons against Energy Power Company for losses arising from erratic power supplies. The matter was set down for a pre-trial conference. The magistrate directed that, before coming to the court for the pre-trial conference, parties should convene a round table discussion on their own. The matter was postponed by the magistrate pending the round table discussion with the concurrence of the two legal practitioners who were representing the parties. The Energy Power Company's director failed to turn up for the round table discussion. On the date of the pre-trial conference before the magistrate, the Energy Power Company's director did not attend the pre-trial conference. He only sent his legal practitioner. The magistrate struck off the Energy Power Company's plea and referred the matter to the unopposed roll for proof of damages by Tatenda.

### **Required**

Advise the Energy Power Company on the legal position which governs the above matter, its remedies and the procedure to be followed. **[20 marks]**

### **Question 2**

With reference to relevant legal authorities, discuss the view that community courts should be reformed to enhance the quality of justice that they dispense. **[20 marks]**

### **Question 3**

Chipo issued summons against Mary claiming various payments. Mary made various requests for further particulars which she claimed were necessary to enable her to plead to the summons. Chipo complied with the first request for further particulars. Mary made another request and Chipo complied again. When Mary made a third request for further and better particulars, Chipo refused arguing that she had already supplied adequate particulars.

### **Required**

Advise the parties on the approach the court is likely to take on the degree of particularity required. **[15 marks]**

### **Question 4**

Mellisa bought a residential stand in 2020. She bought it from Madziwa Town Council and she was given an offer letter. In August 2021, she was advised that there was a double allocation of that stand. Sam had been offered the same stand by Madziwa Town Council a month after Mellisa got an offer. A dispute emerged as to who should be the rightful owner of the stand. Sam has brought building materials at the stand and there are clear indications that he intends to construct a house within a week's time.

### **Required**

Advise Mellisa on the remedies that are available to her and the procedure she should follow. **[25 marks]**

**QUESTION 5**

Explain the following terms;

- a) Substituted service (2)
- b) Jurisdiction (2)
- c) *Res judicata* (2)
- d) Appeal (2)
- e) Exception (2)

**[Total: 10 marks]**

**QUESTION 6**

With reference to relevant authorities, discuss the approach of courts in an application for summary judgment. **[10 marks]**

**END OF PAPER [100 marks]**

**INSTRUCTIONS TO CANDIDATES:**

1. The exam is 200 minutes long.
2. Answer all questions.
3. Notes, textbooks and textbooks are not allowed into the examination room.
4. Cell phones are not allowed into the examination room.
5. Begin each answer to a full question on a fresh page.

**Material allowed in exam:**

- i. Magistrates Court Rules, 2015.
- ii. Magistrates Court Acts (Chapter 7:10).
- iii. Customary Law and Local Courts Act (Chapter 7:08).
- iv. Customary Law and Local Courts (Amendment), Rules 2009.

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