



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB305
COURSE TITLE : CLINICAL AND PRACTICAL SKILLS TRAINING
DURATION : 3 Hours
LEVEL : 3.1
DATE : 27 May 2019

INSTRUCTIONS TO CANDIDATES:

- 1. Answer ALL the two questions from Section A.**
- 2. Answer ANY two questions from section B**
- 3. This is an open book examination**
- 4. Write legibly**
- 5. Start each question on a new page of your answer sheet..**

Section A: Answer ALL Questions in this section

Question 1

Section 124 of the Constitution of Zimbabwe (Amendment 20) Act 1 of 2013 provides as follows;

124 Composition of National Assembly

(1) The National Assembly consists of—

(a) ...

(b) for the life of the first 2 Parliaments after the effective date, an additional 60 women members, 6 from each of the provinces into which Zimbabwe is divided, elected under a party-list system of proportional representation based on the votes cast for candidates representing political parties in a general election for constituency members in the provinces.

There have been calls to amend this provision by extending its term beyond the two-life limit initially envisaged.

1.1 You are required to do a short opinion on whether it is indeed necessary to extend this provision. If you agree, justify the extension period you recommend. [5]

1.2. Draft an amendment to the give effect your recommendations. [10]

Question 2

Describe how government Bills are enacted into legislation, from the time they are first formulated as policy proposals until they are published as Acts of Parliament in the Gazette. Indicate the stages at which interest groups may have an opportunity to influence the contents of the Bills. [15]

SECTION B

Answer any two questions in this Section

Question 3

Your client, Makanakaishe Moyondizvo is the daughter of Mr Chen Moyondizvo and Mrs Hamu Moyondizvo who are married in terms of the Marriages Act Chapter 5:11. She stays at number 2 Mhumhi Road, Rujeko in Marondera, a property owned by Mr Chen Moyondizvo who has an agreement of sale with Marondera Municipality.

Mrs Moyondizvo was banished to Mr Moyondizvo's rural home by Mr Moyondizvo who then had proceeded to bring another woman, Shupikai Zongororo, (these days called a small house) to the matrimonial home. Exactly 9 days before his death, Mr Moyondizvo deposed to an affidavit in which he stated that he, together with his current wife, Shupikai Zongororo, were donating his house to his only sister, Omega Moyondizvo.

Mr Moyondizvo subsequently passed away.

Makanakaishe has received summons issued out of the magistrate's court, Marondera at the behest of Omega Moyondizvo the Plaintiff in the matter. The summons which cite one Chipo Moyo, a cousin of Makanakaishe as the Defendant is for the ejectment of the said Chipo Moyo and all those claiming occupation through her from 2 Mhumhi Street, Rujeko, Marondera. Chipo left Zimbabwe just after the death of Mr Moyondizvo. Chipo never stayed at this property and Makanaka is not even sure how Chipo ended up being cited as the Defendant in this matter.

The particulars of claim read as follows:

1. Plaintiff is Omega Moyondizvo, a female adult whose address for service is care of her legal practitioners, Magwenzi and Partners Legal Practitioners of Tselentis Building, The Green, Marondera.
2. The Defendant is Chipo Moyo, a female adult currently residing at number 2 Mhumhi Road, Rujeko, Marondera.

3. On the 27th September 2017, I became the owner of house number 2 Mhumi Street, Rujeko, Marondera whose rights title and interest were ceded to me by the then owner, Chen Moyondizvo (may his soul rest in peace). I attach as Annexure 1 being a copy of the affidavit deposed to by the said Chen Moyondizvo.
4. Since the death of Mr Moyondizvo, I have demanded that the defendant and all those who are staying with her leave the house. This has been ignored.
5. I therefore pray for an order for the ejection of the Defendant and all those who enjoy occupation through her.

Wherefore Plaintiff claims:

- a. Ejection of the Defendant and all those who derive their right to stay at this property through her.
- b. Costs of suit.

3.1 With sufficient justifications, do a legal opinion of how you propose to deal with this matter. [5]

3.2 Draft the initial necessary papers supporting whatever action you wish to take. [15]

Question 4

Your client, Jack and Fieldsand Motor Sales sold and delivered to their customers, Wilber Hope and Inspy (Pvt) Ltd, T/A Little Hearts High School, a 15 seater minibus. The bus was sold on hire purchase for RTGSS\$38,400. It was delivered on the 15th of January 2017.

The customer paid the sum of RTGSS\$8,400 being the required deposit before taking delivery of the bus. The customer was obliged to pay RTGSS\$3,000 for 10 months to clear off the balance. However, they only paid \$7,000. Subsequent requests for the balance have been ignored.

Your clients instructed you to issue summons to claim the balance of RTGS\$23,000 which is outstanding together with interest at the prescribed rate and costs of suite.

Upon issuing the summons, the customers through their legal practitioners, Mudzinganyama and Associates entered an appearance to defend the action.

4.1 With sufficient justifications, do a legal opinion of how you propose to deal with this matter. [5]

4.2. Draft the initial necessary papers supporting whatever action you wish to take. [15]

Question 5

You have been given instructions by John Mkuena to issue summons against Magdalene Moyo, a debtor who has stubbornly been failing to pay USD\$1 998,35 that she owes him. The money was advanced to Mary in October 2015. Upon attempting to serve the summons at number 288 Murara Avenue, Mufakose Harare, the messenger of court fails and sends his return of service indorsed “found Wickneil Ginimbi, a lodger at address of service who advised that Defendant was unknown at this address. Return to Attorneys”.

a) Write a letter to the Messenger of Court requesting him to take any corrective action and ensure that your client does not incur further costs. [5 marks]

b) While inventing any further necessary facts, list the issues you could include in a plea that Magdalene would file in defense of the John’s claim. [5 marks]

c) Assuming you discover that your firm once acted for Magdalene in a criminal trial in when she allegedly aborted in 2014, after issuing summons against her, what would be the courses of action open to you and why? [5 marks]

d) Upon receiving the letter asking him to take corrective action, the Messenger of Court reattempts service and issues a return of service endorsed as follows; “the place is now occupied by Wickneil Ginimbi who refused to accept service on behalf of the defendant whose new address is unknown. Return to attorney. Explain in brief the procedure you will take to ensure service of the process. [5 marks]