

**ZIMBABWE EZEKIEL GUTI UNIVERSITY**

**FACULTY OF LAW**

**CIVIL PROCEDURE (SUPERIOR COURTS)- LLB308**

**DURATION: 3 HOURS**

19 NOV 2019

**INSTRUCTIONS TO CANDIDATES**

1. Answer **ALL** questions.
  
2. **Materials allowed into examination room**
  - a) Constitution of Zimbabwe Number 20 of 2013.
  - b) High Court Rules RGN No. 1047/71.
  - c) Supreme Court Rules, S1 84 of 2018.
  - d) Constitutional Court Rules, S1 61 of 2016.
  - e) High Court of Zimbabwe Act [Chapter 7:06].
  - f) Supreme Court of Zimbabwe Act [Chapter 7:13].
  - g) Matrimonial Causes Act [Chapter 5:13].

**INFORMATION FOR CANDIDATES**

1. Credit shall be given for referring to case law, statutes or any other authorities wherever applicable.
2. Notes, handouts and textbooks are not allowed into the examination.
3. Cellphones are not allowed into the examination room.
4. Begin each answer to a full question on a fresh page.

### **Question 1**

Discuss the jurisdiction of the Supreme Court in civil matters. [20 marks]

### **Question 2**

Tafadzwa purchased an immovable property from Zex, being Stand Number 54, Tafara, Glendale. At the time of the purchase, the property was occupied by Tonderai. Tafadzwa alleged that prior to the purchase he had viewed the property on many occasions and he had been guided by Tonderai during such viewing. Zex was reluctant to transfer the property to Tafadzwa and he was successfully sued by Tafadzwa and the property was transferred to him. Tafadzwa then demanded rentals from Tonderai who refused to pay the rentals on the basis that he was the owner of the property and not a lessee. Tafadzwa proceeded to issue summons for the eviction of Tonderai. At the pre-trial conference stage before a High Court judge, the sole issue which was referred to trial was whether or not Tonderai had a defence to a claim of eviction. In a separate case, Tonderai issued summons seeking the cancellation of the title deeds which had been registered in the name of Tafadzwa in respect of the disputed property. In his summons, Tonderai cited Tafadzwa, Zex and the Registrar of Deeds as defendants. Out of the three defendants, only Tafadzwa entered an appearance to defend. Tonderai proceeded to apply for a default judgement against Zex and the Registrar of Deeds. The court's order included a substantive order against Tafadzwa who had entered an appearance to defend and a plea.

### **Required**

Advise Tafadzwa on his remedies and the procedure which he must follow in order to get the relief he seeks. [25 marks]

### **Question 3**

'A litigant with a direct and substantial interest in a matter is the one who has the capacity to institute legal proceedings in a court of law'. Discuss.

[25 marks]

### **Question 4**

Moses has been served with an application for summary judgement. He is a self-actor but does not know the legal points which he must address if he intends to oppose the application.

**Required**

Advise Moses on the document he must file if he intends to oppose the application for summary judgement and the requirements which must be proved. **[20 marks]**

**Question 5**

Explain the following terms;

- a) Maintenance *pendente lite*. (3)
- b) Exception. (3)
- c) Interpleader. (4)

**[Total: 10 MARKS]**

**[END OF EXAMINATION: 100 MARKS]**