



**"Investing in Africa's Future"**

**SCHOOL OF LAW  
NLLB311: CIVIL PROCEDURE: SUPERIOR COURTS**

**END OF SECOND SEMESTER EXAMINATIONS**

**APRIL 2025**

**LECTURER: ADVOCATE B. MAGOGO**

**DURATION: 3HRS**

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**INSTRUCTIONS**

- 1. Answer ALL questions.**
- 2. Write legibly.**
- 3. Cite relevant authorities to support your answers.**
- 4. Candidates are allowed to use clean copies of the following materials during the examination:**
  - Constitution of Zimbabwe (2013)
  - Constitutional Court Rules, 2023
  - Constitutional Court Rules, 2025
  - Supreme Court Act (Chapter 7:13)
  - Supreme Court Rules, 2018
  - High Court Act (Chapter 6:07)
  - High Court Rules, 2021
  - High Court (Commercial Division) Rules, 2020.

### Question 1

- a. *“In other words, whilst the Supreme Court may do nothing that the law does not permit, the High Court may do anything that the law does not forbid.”- Guwa v Willoughby’s Investments (Pvt) Ltd 2009 (1) LR 368 (S)*

Explain the meaning of this statement in relation to jurisdiction. In your answer clearly distinguish the jurisdiction of the High Court, the Supreme Court and the Constitutional Court. **[10 marks]**

- b. With the aid of case authorities discuss the circumstances in which it may be necessary to attach a Defendant’s assets to found or confirm the High Court’s jurisdiction. **[5 marks]**

**[Sub-Total: 15 marks]**

### Question 2

- a. Mufaro filed summons with the High Court (General Division) using the IECMS platform. The Defendant, Mutsa filed her appearance to defend within time but forgot to serve it on Mufaro. She then filed her plea and her special plea and her lawyer advised her that they would wait to be advised by the court of the hearing date of the special plea.

- (i) State whether Mutsa complied with the High court Rules and in what ways. **[6 marks]**
- (ii) What remedies are available to Mufaro in light of what Mutsa and her lawyer have done? **[4 marks]**

- b. With the aid of four (4) examples and case law explain what a debt or liquidated demand is? **[4 marks]**

- c. What is the prescriptive period for the following:

- i A debt secured by mortgage. **[1 mark]**
- ii Claims in terms of the Police Act. **[1 mark]**
- iii A claim for arrear maintenance. **[1 mark]**
- iv Divorce **[1 mark]**

**[Sub-Total: 18 marks]**

### Question 3

- a. What are the two methods by which one may institute proceedings in the High Court? **[2 marks]**
- b. What is the number of sets of affidavits that must be filed in application proceedings in the High Court? **[2 marks]**

- c. What recourse is available to a party who intends to file further affidavits in the High Court? **[2 marks]**
- d. Leslie filed a court application for relief in the High Court. She then realised that she omitted some critical matters in her founding affidavit. She advised her lawyer to attach the same to her answering affidavit.

With the aid of case law explain whether this is proper. **[4 marks]**

**[Sub-Total: 10 marks]**

#### **Question 4**

- a. What are the requirements for a valid notice of appeal in the Supreme Court? **[4 marks]**
- b. In what circumstances is a party excused from paying security for costs in the Supreme Court? **[2 marks]**
- c. Where an appeal is struck off for non-compliance with the Rules, what are the remedies available to a litigant? Explain using the Rules of court and case law. **[4 marks]**
- d. Where an appeal is 'deemed abandoned' for failure to serve a Respondent within time, what are the remedies available to an Appellant? **[3 marks]**

**[Sub-Total: 13 marks]**

#### **Question 5**

The High Court grants a provisional order in favour of Bema on 9 October 2023. Reasons are handed down on 29 October 2023. Meanwhile, Godo, (Bema's opponent) is aggrieved with the judgment. He instructs his lawyer to note an appeal to the Supreme Court on 14 March 2025 challenging the judgment of the judge, Tangent J, which he promptly does.

- (a) Explain with the aid of case law whether this is proper. **[10 marks]**
- (b) What determination is the court likely to make after considering the matter? **[4 marks]**
- (c) What can Bema's lawyers do in order to regularise the appeal? **[5 marks]**

**[Sub-Total: 10 marks]**

#### **Question 6**

- 6.1 What is the difference between an appeal and a review? **[4 marks]**
- 6.2 What are the grounds for a review application in the High court? **[4 marks]**



6.4 What preliminary objections may be taken in this review application? **[6 marks]**

6.5 Assuming you are the judge before whom the above notice is placed, what determination would you make and why? **[4 marks]**

6.6 Nomusa applies for condonation for her non-compliance with the Rules. On what basis may her application be rejected? **[4 marks]**

6.7 Within what period of time should an application for review be filed? **[2 marks]**

**[Sub-Total: 24 marks]**

### **Question 7**

What is the *dies induciae* for filing:

7.1 An appearance to defend. **[2 marks]**

7.2 Special plea. **[2 marks]**

7.3 Counter-claim. **[2 marks]**

7.4 Heads of argument for a Respondent. **[2 marks]**

7.5 An appeal in the Supreme Court. **[2 marks]**

**END OF EXAMINATION**