



"Investing in Africa's Future"

SCHOOL OF LAW

NLLB208: CIVIL PROCEDURE INFERIOR COURTS

END OF SECOND SEMESTER EXAMINATIONS

APRIL 2026

LECTURER: L. MANYIKA

DURATION: 3HRS

GENERAL INSTRUCTIONS TO CANDIDATES

1. Do NOT write your name on the answer sheet
2. Answer **ALL** questions from Section A and any **THREE (3)** questions from Section B
3. Begin your answer for each question on a new page.
4. Candidates may bring into the examination room clean copies of:
 - Magistrates Court Civil Rules, 2018
 - Magistrates Court Act
 - Customary Law & Local Courts Act
 - Prescription Act
 - Small Claims Court Act

Section A (This question is compulsory)

QUESTION ONE

Mr X is in the business of lending money in Mutare CBD. Y, who wants to start a catering business is in desperate need of money to buy the essentials which are required for starting the business and approaches Mr X for a loan amounting to **USD\$12 000.00**. Y drives a car which his brother gave to him for his convenience. Upon approaching Mr X for a loan, Y is advised that for him to secure the loan, he ought to sign a document in which he acknowledges owing Mr X. In addition, Y is advised that he will not be able to get the loan without offering his car as security for the loan. Further, Mr X would charge Y interest at 40% for the amount he sought. Desperate, Y agrees to Mr X's terms, receives the **USD 12 000.00** and signed the loan agreement. The material terms of the loan agreement signed by Y and Mr X included the following: -

- i) That Y unequivocally acknowledges owing Mr Y in the sum of **USD 16 800.00** (being the \$12 000 loaned to him plus interest.)
- ii) That the amount was due and payable on or before the 31st November 2025.
- iii) That Y offers his vehicle, a black Honda Fit, registration number ABB 1212, as security for the amount owed;
- iv) That in the event that Y fails to pay, Mr X will be entitled to sell the vehicle to recover the costs and may institute proceedings in court to recover the outstanding amount after the sale of the vehicle;
- v) That in the event Mr X approaches the Magistrates' Court, Y would be liable for costs of suit at an Attorney and Client Scale.

Y fails to repay the loan to Mr X on the agreed date. Mr X takes the car as agreed to and sells it. From the sale he recovers **USD 4 000.00**. Mr X decides to institute proceedings against Y to recover the outstanding amount of **USD12 800**. Mr X has approached you for legal advice.

- (a) Of the procedures available to a litigant to institute proceedings in the magistrates' court, outline the procedure that Mr X will have to use to recover the amount owed by Y. Explain why that procedure is the best in the circumstances. **[10 Marks]**

- (b) Advise Mr X on the best course of action in the event that Y chooses to defend Mr X's claim. In your answer, outline the requirements of that course of action and what Mr X will be expected to allege and prove in order to be successful.

[10 Marks]

- (c) Assuming Mr X serves Y with summons for the recovery of the outstanding amount through the Messenger of Court. The summons is served by the Messenger of Court at Y's place of residence on 20 December by handing them to Paul, Y's garden boy, who accepts service on behalf of Y. As at 15 January Mr X approaches the court and is informed that no appearance to defend has been filed by Y. What course of action can Mr X take?

[10 Marks]

- (d) The Messenger of Court serves Y with a warrant of execution against property for an order awarded by the court to Mr X in the amount claimed. Y is puzzled to see this warrant of execution since he never saw any document suggesting that he was being sued. Y immediately checks with the Court and realises that an order was entered against him 25 days ago. A perusal of the return of service shows that the summons was served on Paul, X's former gardener who has since left employment. What course of action can Y take to have this order reversed?

[10 Marks]

TOTAL MARKS [40 Marks]

SECTION B ANSWER ANY 3 QUESTIONS FROM THIS SECTION

QUESTION TWO

In law, both an exception and a special plea are two types of technical defences or objections that a defendant can raise in response to the other party's pleadings. They are however different in nature.

Discuss this statement with reference to relevant legal authority. In your answer identify and discuss the examples of each of the two defences.

[20 Marks]

QUESTION THREE

- a) With the aid of relevant authority, define ‘absolution from the instance,’ and discuss what the Defendant seeking for it ought to allege and prove. **[10 Marks]**
- b) With reference to relevant authority, discuss the requirements which must be satisfied for one to succeed in an application for an interim interdict. **[10 Marks]**

QUESTION FOUR

- a) What is the procedure of bringing a case in the Chief’s court. **[5 Marks]**
- b) Where a defendant defaults a Chief’s court and judgment is entered against him/her, what remedy is available to him/her? **[5 Marks]**
- c) Where the Chief’s court rules in favour of an applicant, what recourse is available to an aggrieved respondent. **[5 Marks]**
- d) How does a litigant enforce an order of a Chief’s court? **[5 Marks]**

QUESTION FIVE

With reference to relevant authority, identify and describe each of the four stages of an action procedure in the inferior courts. **[20 Marks]**

TOTAL MARKS 100

END OF QUESTION PAPER