



MIDLANDS STATE UNIVERSITY

FACULTY OF LAW

PROCEDURAL LAW DEPARTMENT

**CIVIL PROCEDURE
CODE: LB205**

APRIL 2022

DURATION: 3 HOURS

INSTRUCTIONS

1. *Answer all questions.*
 2. *Students may bring unannotated copies of:*
 - i) *The Magistrate Court Act [Chapter 7:10].*
 - ii) *The Magistrate Court (Civil) Rules, 2018 Statutory Instrument 11 of 2019.*
 - iii) *This paper is worth 70 Marks.*
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Question 1

Mufaro is served with a summons issued out of the Gweru Magistrates Court. She entered an Appearance to Defend and the Plaintiff's legal practitioners then served an Application for Summary Judgment.

As a legal practitioner, what are:

- a) the options available to the Defendant when faced with an Application for Summary Judgment; **[3 Marks]**
- b) the allegations which Plaintiff should make in her affidavit in support of the Summary Judgment Application; **[3 Marks]**
- c) the limited categories of claims as provided for in the relevant Magistrate Rules that are permissible for a summary judgment application to be brought; and **[4 Marks]**
- d) the procedural steps involved in the litigation process if the summary judgment application is dismissed and the action has to proceed to trial? **[10 Marks]**

Question 2

State and explain the differences between actions and applications. **[10 Marks]**

Question 3

Discuss the 3 types of interdicts that can be obtained and the requirements that must be met before an interdict is granted. **[10 Marks]**

Question 4

Outline the procedural steps involved in a contested court application from initiation of proceedings to granting/dismissal of the order. **[15 Marks]**

Question 5

Discuss the types of judgments which a Magistrate may give after a trial of a matter?

[5 Marks]

Question 6

You obtain a judgment sounding in money against Deon, an employee of Midlands State University.

Explain fully the procedural steps involved in enforcing the judgment in circumstances where you do not know the whereabouts of Deon's property and you do not want to cause his arrest.

[10 Marks]

End of Examination