

COUNCIL OF LEGAL EDUCATION



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

CIVIL PROCEDURE I

TUESDAY 29TH NOVEMBER, 2011

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 marks**
- (c) All other questions carry **15 marks** each

PLEASE TURN OVER

QUESTION ONE

James Okang'a is a retailer trading in general merchandise in Kericho Town. Over the years, he has developed a pool of credit-worthy customers. One of his most trusted customers is Jonathan Lipule. On 01.06.2011, Jonathan took goods worth Kshs.300, 000 from James' shop. Previous dealings had it that all goods taken on credit were payable within 30 days. By September 2011, Jonathan had not paid for the goods. James came to your firm of legal practitioners for advice. You advised him that he had a claim in law against Jonathan. You even issued a letter of demand and notice of intention to sue. Today, James came back to your chamber to instruct you to prepare necessary documents to take Jonathan to court. As a former student of Civil Procedure, you know that you have to prepare a plaint. Draft a plaint for James' perusal. (For purposes of this question, the other documents that accompany the plaint are NOT necessary.)

(25 marks)

QUESTION TWO

Identify and explain the various factors that influence the choice of the appropriate court or tribunal in which to commence civil proceedings.

(15 marks)

QUESTION THREE

The purpose of an affidavit of service is to provide evidence to court that service of the process of court has indeed taken place. To achieve this objective, an affidavit at service must be sufficiently detailed. Identify the details that must be supplied in a proper affidavit service.

(15 marks)

QUESTION FOUR

The Supreme Court of Kenya is an important institution in the civil litigation process. It is vested with both original powers and appellate powers. State the powers of the Supreme Court under the Constitution of Kenya 2010 remembering to put them in the appropriate category of either original or appellate.

(15 marks)

QUESTION FIVE

Identify the various pleadings available in our regime of law governing the civil jurisdiction of the courts and in each case give an example of a cause of action in which the pleading is appropriate.

(15 marks)

QUESTION SIX

The defence is one of the documents that are often used in civil litigation. Like any other document of procedure, it is governed by rules. Highlight the rules that one must keep at the back of his mind in drafting a defence.

(15 marks)

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DIPLOMA IN LAW (PARA-LEGAL STUDIES)

CIVIL PROCEDURE I

MONDAY 12TH NOVEMBER, 2012

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 marks**
- (c) All other questions carry **15 marks** each

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QUESTION ONE

- a) Every pleading should have a certain format and certain information. Define and explain the format and content of a plaint. (15 marks)
- b) State the documents that must accompany the following pleadings at the time of filing:
- i) The plaint
 - ii) The defence & counterclaim (10 marks)

QUESTION TWO

- a) Discuss the following terms as they relate to civil procedure:
- i) Res Judicata
 - ii) Sub Judice (9 marks)
- b) A defendant is required to enter an appearance in Court. What information should an appearance contain? (5 marks)

QUESTION THREE

In order to decide where to file a suit in Kenya, various factors have to be considered. Explain the factors that you would consider in arriving at the decision on where to file:

- a) a suit for a wrong done to a person or to moveable property (10 marks)
- b) a suit for a case concerning immovable property (5 marks)

QUESTION FOUR

- a) What procedures must be followed to enable infants and persons of unsound mind to effectively sue? (8 marks)
- b) Explain the meaning of the following terms:
- i) Originating Summons (3 marks)
 - ii) Third Party Proceedings (4 marks)

QUESTION FIVE

Parties to suits can only rely on certain matters if such matters are specifically pleaded. Outline any **TEN** matters that a litigant must specifically state in his pleading if he/she is to rely on them at trial.

(15 marks)

QUESTION SIX

- a) Explain the procedure of joining a new party to a suit, either as a plaintiff or as a defendant. **(10 marks)**
- b) Briefly explain the procedure of amending a pleading. **(5 marks)**



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DIPLOMA IN LAW (PARA-LEGAL STUDIES)

CIVIL PROCEDURE I

MONDAY 2ND DECEMBER, 2013

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 marks**
- (c) All other questions carry **15 marks** each
- (d) Marks shall be lost for illegibility

PLEASE TURN OVER

QUESTION ONE

Jan was travelling as a fare paying passenger in a matatu Reg. No. KAB 134 which was being driven in Kakamega town when the same was involved in a collision with another motor vehicle registration No. KAC 206. Jan is a resident of Nairobi and had just gone to visit in Kakamega. Upon coming out of the motor vehicle he realized that it had been involved in a multiple accident with 3-other cars. He knows that Kim the owner of the matatu also lives in Nairobi. He has been able to establish the owner of KAC 206 who is Mona but he does not want to bother with the rest. He has come to you for advice as he wants to sue. Advise him on the following:

- a) Consideration to be taken as to where to file the suit and why? (10 marks)
- b) How all the parties would be brought into the suit. (15 marks)

QUESTION TWO

What are the formal requirements of pleadings as stated in order 2 rule 2 of the Civil Procedure Rules? (15 marks)

QUESTION THREE

- a) List and briefly discuss **FOUR (4)** pleadings that commence suits (8 marks)
- b) Every person has the capacity to sue and be sued. How would you file suit or sue for persons of unsound mind and minors? (7 marks)

QUESTION FOUR

Discuss the process of pleadings from the time of filling a plaint to the time of setting suit for hearing. (15 marks)

QUESTION FIVE

- a) Under what circumstances pleadings would be amended? (9 marks)
- b) How would the actual amendments be carried out? (6 marks)

QUESTION SIX

- a) What is an interlocutory proceeding? (5 marks)
- b) Under what circumstances would the court issue a temporary injunction? (10 marks)

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DIPLOMA IN LAW (PARALEGAL STUDIES)

CIVIL PROCEDURE I

25TH NOVEMBER, 2014

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions.
- (b) Question **ONE** carries **25 Marks**.
- (c) All other questions carry **15 Marks** each.

PLEASE TURN OVER

1. a) From the paragraph below list down five (5) issues that would be considered as material facts to be inserted into a plaint.

“My name is Bahati. On the 10th day of April, 2014 I was walking on the pavement along Tom Mboya Street near Development House. There were many people and it was a very hot day. As I stepped on to the road trying to cross from one side to the other a green Matatu Reg. KAX O64 Y appeared from nowhere and knocked me. It was over speeding. I broke my leg. I was rushed to Nairobi Hospital where I was treated and discharged.

(5 Marks)

- b) State five (5) legal entities that the courts would allow to file a civil suit.

(5 Marks)

- c) State the formatting requirements of pleadings.

(15 Marks)

2. a) State eight (8) instances when a party may institute interlocutory proceedings in a civil suit.

(8 Marks)

- b) Briefly discuss the issues that the court would take into consideration in granting an interlocutory injunction.

(7 Marks)

3. All persons have a right to sue. Discuss this statement with regard to filing suits by people with legal disability.

(15 Marks)

4. State the various considerations that you would have in mind when beginning a suit relating to:

- a) Movable property

(7 Marks)

- b) Breach of contract

(8 Marks)

5. a) Who is an interpleader?

(5 Marks)

- b) Briefly explain third party proceedings.

(10 Marks)

6. a) Discuss how amendments are effected on pleadings.

(7 Marks)

- b) Discuss instances when suits would be started using an originating summons.

(8 Marks)

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DIPLOMA IN LAW (PARALEGAL STUDIES)

CIVIL PROCEDURE 1

7TH DECEMBER, 2015

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions.
- (b) Question **ONE** carries **25 Marks**.
- (c) All other questions carry **15 Marks** each.

PLEASE TURN OVER

QUESTION ONE

- (a) Explain the meaning of "pleadings". (5 Marks)
- (b) Using examples state 4 (four) types of pleadings. (8 Marks)
- (c) Explain any 12 (twelve) formal requirements of pleadings. (12 Marks)

QUESTION TWO

Explain the following doctrines in relation to filing of suits.

- a) Res Judicata. (8 marks)
- b) Res Sub-Judise (7 marks)

QUESTION THREE

Outline the issues to be taken into consideration when deciding on the Courts Jurisdiction of filing Civil Suits. (15 marks)

QUESTION FOUR

- (a) List 7 (seven) entities which may sue on behalf of persons without joining them in the suit. (7 marks)
- (b) Explain conditions for appointment of a Guardian ad Litem. (8 marks)

QUESTION FIVE

- (a) Describe instances when a third party may be joined in a suit. (8 marks)
- (b) Outline the procedure for joining a third party in a suit. (8 marks)

QUESTION SIX

- (a) Briefly explain how pleadings are amended. (5 marks)
- (b) Give 10 instances when a party may use interlocutory proceedings in a Suit. (10 marks)

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DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION

CIVIL PROCEDURE I – DPS 205

29TH NOVEMBER, 2016

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 Marks**
- (c) All other questions carry **15 Marks** each

PLEASE TURN OVER

Question One:

- (a) Using examples of pleading that begin a civil suit explain the meaning of pleadings. (10 Marks)
- (b) Giving examples briefly discuss matters that must be specifically pleaded. (15 Marks)

Question Two:

- (a) Discuss consideration for determination of the place of filing a suit in case of a civil wrong to a person. (7 Marks)
- (b) Who may be joined as defendant in a suit? (8 Marks)

Question Three:

- (a) State the conditions for appointment of a *Guardian ad litem* under the civil procedure rules. (10Marks)
- (b) Briefly discuss how a pauper would file a suit as provided by the Civil Procedure Act. (5 Marks)

Question Four:

Write short notes on the following:

- (a) Stay of proceedings. (3 Marks)
- (b) Close of pleadings. (3 Marks)
- (c) Joinder of issues (9 Marks)

Question Five:

Discuss circumstances under which amendments of pleadings may be effected. (15 Marks)

Question Six:

- (a) Briefly discuss the doctrine of *Res sub Judice* in relation to the filing of civil suits. (9 Marks)
- (b) What is an *exparte* application?

END

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DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION

CIVIL PROCEDURE I

21st November, 2017

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 Marks**
- (c) All other questions carry **15 Marks** each

PLEASE TURN OVER

Question One:

- (a) State the objectives of the Civil Procedure Laws (10 Marks)
- (b) Define Pleadings (5 Marks)
- (c) Discuss any TEN matters that must be specifically pleaded. (10 Marks)

Question Two:

- (a) Discuss the meaning, purpose and implication of the doctrine of *Res Judicata* (10 Marks)
- (b) State FIVE instances when a matter will be said not to have been dismissed on merits. (5 Marks)

Question Three:

- (a) Explain the purpose of pleadings (5 Marks)
- (b) Every pleading must state material facts only. What are material facts? (6 Marks)
- (c) Explain the importance of case analysis before writing of pleadings. (4 Marks)

Question Four:

Discuss how competent jurisdiction of a court to try a case is arrived at. (15 Marks)

Question Five:

Describe how suits by and against the following persons are filed:

- (a) Minors (5 Marks)
- (b) Persons of unsound mind. (10 Marks)

Question Six:

- (a) Explain who may be joined into a suit as a defendant. (10 Marks)
- (b) Discuss circumstances under which a third party may be joined in a suit. (5 Marks)

END

THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION



CIVIL PROCEDURE I

21st November, 2018

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

Question One:

- a) State any **FOUR** pleadings that begin cases under the Laws of Kenya. (5 Marks)
- b) Explain the general contents of pleadings as stipulated under the Civil Procedure Act of Kenya. (20 Marks)

Question Two:

- a) Discuss the following principles and their implications under the Kenyan Civil Procedure Act.
- i. Res Judicata (8 marks)
- ii. Res Sub Judica (7 marks)

Question Three:

Briefly explain how suits by and against the following persons are instituted under the Civil Procedure Act.

- a) A minor (7 Marks)
- b) Persons of unsound mind. (8 Marks)

Question Four:

Outline factors that would determine the place of filing suits for the following as provided by the Civil Procedure Act:

- a) Immoveable property (3 marks)
- b) Moveable Property (7 marks)
- c) Contract Matters (5 marks)

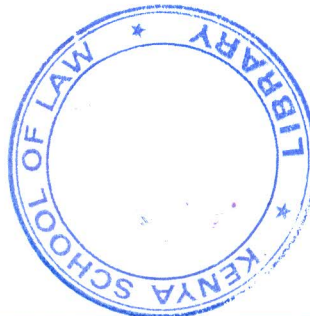
Question Five:

Briefly explain how complaints are filed at the Kenyan court registry. (15 marks)

Question Six:

Write short notes on the following:

- a) Amendment of pleadings. (10 marks)
- b) Interlocutory proceedings (5 marks)



END

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DIPLOMA IN LAW (PARA-LEGAL STUDIES)

2ND YEAR TERM II EXAMINATION

CIVIL PROCEDURE I-DPS 205

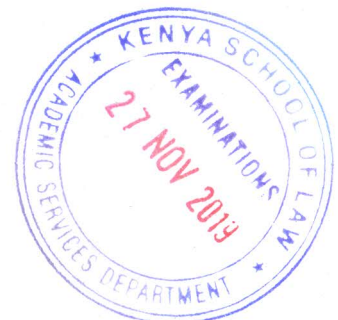
27th November, 2019

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER



Question One:

- a) Discuss the contents of pleadings as stipulated in the Civil Procedure Rules. (15 marks)
- b) State the objectives of the Kenyan Civil Procedure Act. (10 marks)

Question Two:

- a) Discuss the meaning of res judicata. (7marks)
- b) Explain the exceptions to the res judicata rule. (8 marks)

Question Three:

Discuss capacity to file suits under the following headings:

- a) Where the plaintiff is a minor. (6 marks)
- b) Considerations for appointment of person to represent persons of unsound mind as defendants in a Civil Suit. (9 marks)

Question Four:

- a) State the considerations for persons to be joined as defendants in a suit. (10 marks)
- b) Describe considerations for joining a third party to a suit. (5 marks)

Question Five:

- a) Briefly explain how a plaint is amended. (10 marks)
- b) Explain the meaning of interlocutory proceedings. (5 marks)

Question Six:

- a) Briefly describe how pleadings are filed at the Court Registry. (11 marks)
- b) State **four (4)** factors to be considered in determining the court where a suit on immovable property should be filed. (4 marks)

END