



**HEBERT CHITEPO LAW SCHOOL
BACHELOR OF LAWS HONOURS DEGREE
EXAMINATION QUESTION PAPER**

MODULE CODE:	LLB 222
MODULE NARRATION	CIVIL PROCEDURE (LOWER COURTS)
DATE	2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

- 1. Answer ALL questions**
- 2. You are advised to read all questions carefully before attempting to answer any.**
- 3. You are advised to cite relevant authorities to support your answers.**
- 4. Write legibly.**
- 5. Candidates may bring into the examination room clean copies of:**
 - Magistrates Court Act, Magistrates Court Civil Rules**
 - Customary Law & Local Courts Act**
 - Constitution of Zimbabwe**
 - Prescription Act**
 - Domestic Violence Act**
- 6 This examination paper is three pages long including the cover page.**

Question One

- a) With reference to case law authorities, explain the difference between an Appeal and review. In your answer and with the aid of case law, specify if launching an appeal or a review automatically suspends the operation of the judgment under scrutiny. (10)
- b) Differentiate between Action proceedings and Application proceedings with the aid of case law authority. In the process, outline circumstances where each procedure is untenable. (5)
- c) Where a litigant chooses Application proceedings, outline the steps he/she will be expected to take in prosecuting his/her claim to its logical conclusion. (10)
- d) Where the court makes a finding to the effect that material disputes of fact exist in an application, what are the options available to the court in dealing with such a finding? (5)

Subtotal [30 Marks]

Question Two

After years of fighting for the office of village head with Ziso his brother, Chegotsi finally decides to institute proceedings in the magistrates' court seeking, amongst other relief, an order declaring him the rightful village head of the Tinosekwa Village, under Chief Chihombiro, Masvingo. He tasks his right hand-man, Musorobhangu, to serve the summons on Ziso at his rural home in Tinosekwa. Musorobhangu leaves the summons at the gate of Ziso's home and assures his boss, Chegotsi, that he has effected service on Ziso.

As to be expected, Ziso does not file any appearance to defend and Chegotsi obtains a default judgment against Ziso. Five months later, Ziso hears rumours to the effect that Chegotsi is the new village head, having obtained an order to that effect in the magistrates' court. Ziso has engaged you to institute the requisite proceedings.

- a) Explain to Ziso what is wrong, if anything, with Chegotsi's service of summons. Further explain to Ziso what constitute proper service of summons. (5)

- b) What application, if any, should be done in order for Ziso to defend Chegotsi's claim? (5)
- c) In the event that the Application in b) succeeds, advise Ziso of the defence he should raise to Chegotsi's claim? (5)
- d) What remedy will be available to Ziso in the event that the application in b) is dismissed? (5)

Subtotal [30 Marks]

Question Three

- a) What is the procedure of bringing a case in the Chief's court? (5)
- b) Where a Respondent defaults a Chief's court and judgment is entered against him/her, what remedy is available to him/her? (5)
- c) Where the Chief's court rules in favor of an Applicant, what recourse is available to an aggrieved Respondent? (5)
- d) How does a litigant enforce an order of a Chief's court? (5)

Subtotal [30 Marks]

TOTAL MARKS

[70]

END OF QUESTION PAPER