



جامعة السلطان الشريف علي الإسلامية
UNIVERSITI ISLAM SULTAN SHARIF ALI
SULTAN SHARIF ALI ISLAMIC UNIVERSITY

Faculty of Shariah and Law
Semester II, 2015/2016 Academic Session

Final Examination Question Paper

Course Code : Civil Procedure II

Course Name : LB 5302

**Course Level : Bachelor of Laws (LL.B) & Bachelor of
Shariah Laws (BSL)**

Time : 3 hours

Reference allowed:

(Rules of High Court)

Notes:

1. Answer any **FOUR** questions.
2. All answers, wherever relevant, must be supported by statutory provisions and case law.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

QUESTION 1 (15 Marks)

(a) What are the modes of originating process in the High Court?

(2 marks)

(b) When is it appropriate to commence an action in the High Court by originating summons or by writ?

(7 marks)

(c) Karen sued Peter for unliquidated damages in the High Court. The writ was issued on 1st March, 2016 and was served on Peter on 31st March, 2016. Peter has not, to date entered an appearance to the suit.

Advise Karen on what steps she may take in the matter to obtain judgement.

(6 marks)

QUESTION 2 (15 Marks)

(a) Newline Inc. are the producers and copyright owner of the film 'Super Cop' which is currently being shown in the local cinemas. The information collected by Newline Inc. shows that Choo Hock Sdn Bhd has been illegally reproducing the film into DVD and Blu-ray DVD and distributing the pirated copies to the local market.

Newline Inc. wants to stop the illegal activity of Choo Hock Sdn Bhd and take Choo Hock Sdn Bhd by surprise so that they do not get rid of any incriminating evidence. Newline Inc. fears that Choo Hock Sdn Bhd may destroy or erase the incriminating documents and articles. Newline Inc. would like to take possession of the list of the names and addresses of the agents and customers of Choo Hock Sdn Bhd.

Advice Newline Inc.

(8 marks)

(b) Hassan filed a claim for BND 1 million against Ratno, an Indonesian citizen, residing in Brunei Darussalam. The case is pending in the High Court. Hassan has reliable information that Ratno has about BND 1 million in his bank account with Berduri Bank Bhd and that Ratno has already transferred BND 500,000 from his account to other bank account (with City Bank Bhd) to an Oversea Bank in Indonesia. Hassan is concerned that Ratno may dispose and transfer the remaining money from his Berduri Bank Bhd account to Indonesia.

Advice Hassan.

(7 marks)

QUESTION 3 (15 Marks)

(a) In July 2014, Berduri Bank Bhd sued Amir as guarantor in respect of a loan of BND 50,000.00 granted to Tauke. Amir filed a statement of defence to Berduri Bank Bhd's statement of claim. The case is fixed for hearing on December, 12, 2015. Amir seeks your advice on the following:

- (i) Amir intends to add Tauke as a third party to seek indemnity in respect of Berduri Bank Bhd's claim, how will you initiate the action?
- (ii) What is the effect if Tauke fails to enter an appearance?

(7 marks)

(b) Najib sued Shuib in the High Court for damages for breach of contract. On 16th February, 2016, Najib served a writ and statement of claim on Shuib. On 20th February, 2016, Shuib entered an appearance. On 27th March, 2016, Shuib paid BND 100,000.00 into court.

Najib seeks your advice on the significance of Shuib's payment into court and the steps that Najib may take if he wants to accept the payment.

Advice Najib.

(8 marks)

QUESTION 4 (15 Marks)

(a) Explain the concept “summons for directions”?

(10 marks)

(a) Briefly outline the order of speeches in a High Court in civil trial where the plaintiff begins and the defendant intends to adduce evidence?

(3 marks)

(b) What happens when the plaintiff in his closing speech raises a new point of law or cites a new authority?

(2 marks)

QUESTION 5 (15 Marks)

(a) Explain the differences between “A Bullock Order” and “Sanderson Order”

(10 marks)

(b) Discuss the effects of the following orders for costs:

- (i) “Costs reserved”;
- (ii) “Costs in any event”; and
- (iii) “Costs in the cause” or “Costs in application”

(5 marks)

QUESTION 6 (15 Marks)

Amir obtained three separate money judgments against Dollah, Ramli, and Baktiar:

- (a) Dollah is a retired pensioner and owns several motorcars. Dollah is currently living with his wife, Aminah who owns a double storey terrace house. Amir had obtained judgment against Dollah for BND 500,000.00 in July 2010.
- (b) Ramli is a manager in ABC Company. He has BND 50,000.00 in his current account with Berduri Bank Bhd, and also owns 30,000 ordinary shares in XYZ Sdn Bhd. Amir had obtained judgment against Ramli for BND 175,000.00 in July 2010
- (c) Baktiar is working as a government civil servant. He is married and has four children. He owns two motorcars and a double storey house. He has BND 30,000 in his saving account with Berduri Bank Bhd. Amir had obtained judgment against Baktiar\$ for BND 105,000.00 in July 2001.

All three judgment debtors have not, to date, satisfied their respective judgment debts. What steps (if any) may be taken by Amir to enforce the aforesaid judgments.

(15 marks)

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