



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

Faculty of Shariah and Law
Semester II, 2017/2018 Academic Session

Final Examination Question Paper

Course Code : LB 5302

Course Name : Civil Procedure II

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

Time : 3 hours

Reference allowed:

Rules of Supreme Court

Notes:

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

QUESTION 1 (15 Marks)

(a) What is a summons for directions?

(5 marks)

(b) Roslan sued Azman for personal injury in the High Court. Roslan had served a writ and statement of claim on Azman. On 20 March 2017, Azman entered an appearance and paid B\$50,000.00 into court. Roslan now comes to see you for advice on:

- i. the significance of Azman's payment into court;
- ii. if Roslan wishes to accept Azman's payment into court;
- iii. the steps to accept Azman's payment into court if the payment into court was made upon the commencement of a trial;
- iv. if Azman decided to object the payment.

Advise Roslan.

(10 marks)

QUESTION 2 (15 Marks)

(a) Damit sued Salleh in the High Court for the sum of B\$4 million. Damit discovered that Salleh had about B\$2 million in his bank account and a luxury car worth B\$150,000. Salleh, a Malaysian citizen residing in Brunei Darussalam had recently transferred B\$2 million from Salleh's bank account to an overseas bank account in Malaysia.

Damit is now worried that Salleh may further dispose of Salleh's properties and transfer the money in Salleh's bank account to Malaysia. Damit seek your advice whether he may apply to court to stop Salleh from disposing of all Salleh's properties and if so, what is the procedure to be followed

(7 marks)

(b) Kamal has a successful paint and chemical manufacturing company, Crown Paint Sdn Bhd. Kamal employs Yusoff as a chemical engineer, whose job it is to develop creative and new shades of paint. In Yusoff's employment contract with Crown Paint Sdn Bhd, all new products developed by Yusoff whilst he was employed with Crown Paint Sdn Bhd will become Crown Paint Sdn Bhd's intellectual property and does not belong to Yusoff.

One day Yusoff resigns and joins one of Kamal's competitors, Sunshine Paint Industries. Kamal started hearing words that the same innovative paints that Crown Paint Sdn Bhd manufactures were becoming available through a different manufacturer in the market. A few clients also informed Kamal that Sunshine Paint Industries was offering them the same products that Crown Paint Sdn Bhd supplied them with.

Kamal had found that Yusoff had sent many e-mails containing commercially sensitive information, including a comprehensive list of various people and organisations that were connected with Crown Paint Sdn Bhd, to his private email address. Kamal now suspect that Yusoff had somehow obtained Crown Paint Sdn Bhd's confidential information: its client list and chemical formulas.

Advise Kamal as to whether there is any application that can be made to court which allows Kamal to conduct a surprise search of Sunshine Paint Industries's premises, including their computer system, to search for the client list and the paint formulas. If so, what is the procedure to be followed.

(8 Marks)

QUESTION 3 (15 Marks)

(a) Amin sued Daud in the High Court for damages for breach of contract. Daud filed a statement of defence in reply to Amin's statement of claim. The case is fixed for trial on 6th June 2018.

Daud seeks your advice on the following:

- i. Daud wishes to add Rahman as a third party to seek indemnity in respect of Amin's claim, how will you initiate the action?

ii. What is the effect if Rahman fails to enter an appearance?

(7 marks)

(b) Briefly outline the order of speeches in a High Court civil trial where:

i. the plaintiff begins, and the defendant intends to adduce evidence;

ii. where the plaintiff begins but the defendant does not intend to adduce any evidence;

(6 marks)

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

(2 marks)

QUESTION 4 (15 Marks)

(a) Describe the effect of the following orders for costs:

(i) "Costs reserved"

(ii) "Costs in any event"

(iii) "Costs in the cause" or "Costs in application"

(4 Marks)

(b) Explain briefly the following orders of the courts in relation to cost:

(i) A Bullock Order; and

(ii) A Sanderson Order

(11 marks)

QUESTION 5 (15 Marks)

Mr Poh obtained three separate money judgements against Ahmad, Botak, and Puspa in the High Court.

- (a) Ahmad is a retired businessman and lives with his daughter. He owns several stamps and coins collection worth about B\$150,000. Mr Poh had obtained judgment against Ahmad for the sum of B\$300,000.00 in July 2017.
- (b) Botak works in TelBro Sdn Bhd as a general manager. He also owns 30,000 ordinary shares in TelBro Sdn Bhd. Mr Poh had obtained judgment against Botak for B\$175,000.00 in January 2018.
- (c) Puspa had recently completed a construction project for AlekJaya Sdn Bhd. A payment of B\$500,000 for the completed project will be deposited into Puspa's bank account at Usahawan Bank Bhd. Mr Poh had obtained judgment against Cinta for B\$500,000.00 in February 2018.

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

(15 marks)

QUESTION 6 (15 Marks)

(a) Fatimah sued Ramlee in the High Court for a specific performance of a written contract. Ramlee has filed a statement of defence and counterclaim against Fatimah.

What order or orders are likely to be made by the courts when the trial of the action is called if;

- i. Neither party appears during a trial the action
- ii. Fatimah is present but Ramlee and his counsel are absent;
- iii. Ramlee is present but Fatimah and her counsel are absent.

(8 marks)

(b) Robert sued David in the Magistrate Court for a sum of B\$30,000. The trial proceeded on 21st January 2018. When the trial ended on 1st March 2018, the judge gave judgment for Robert against David.

David intends to appeal to the High Court against the decision. Advise David the steps he may take to commence the appeal.

(7 marks)

بالتوفيق والنجاح