



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

Faculty of Shariah and Law
Semester II, 2020/2021 Academic Session

Final Examination Question Paper

Course Code : LB5302
Course Name : Civil Procedure II
Course Level : Bachelor of Laws (LL.B) & Bachelor of
Shariah Law (BSL)
Time : 3 hours

References Allowed:

Rules Of The Supreme Court Chapter 5

Notes:

1. Answer **all** questions in part I and any two (2) questions in part II.
2. All answers, wherever relevant, must be supported by statutory provisions and case laws.

PART I

QUESTION 1 (15 Marks)

In a Civil Trial there are a number of important stages that are required to be observed by the counsels representing the Plaintiff and the Defendant in assisting the Court in the just determination of the suit. Clarify the objectives of any three (3) of the following by reference to provision of the Supreme Court Rules and decided cases:

- (i) Opening Speeches. (5 marks)
- (ii) Examination in Chief. (5 marks)
- (iii) Cross Examination. (5 marks)
- (iv) Re-examination. (5 marks)
- (v) Adjournment. (5 marks)
- (vi) Closing Speeches. (5 marks)
- (vii) Judgment. (5 marks)

QUESTION 2 (15 Marks)

- (a) David has sued Thomas for a personal injury accident leading to David suffering serious injuries. Thomas was insured by the General Insurance Company and the suit has not been settled as the General Insurance Company disputed that Thomas was negligence.

In a Pre-Trial stage, parties are interested to make application to the Court to obtain documents from either party.

You have been appointed by David to make application in Court by way of Discovery and Interrogatories. Explain the meaning of Discovery and Interrogatories and its objective in the Civil trial between David and Thomas. Your answer must refer to the provision of the Supreme Court Rules and decided cases.

(9 marks)

- (b) In the application you are required to file Affidavit in Support: Clarify the use of Affidavit evidence by reference to provision of the Supreme Court Rules and decided cases as follows:

- (i) Meaning of Affidavit. (2 marks)
- (ii) Contents of Affidavit. (2 marks)
- (iii) Form of Affidavit. (2 marks)

PART II

QUESTION 3 (15 Marks)

An injunction is a judicial order of the Court which is made to either prohibit the other party from acting or continuing to act in a particular manner; or to compel the other party to take steps.

Discuss with reference to decided cases and Rules of the Supreme Court any of the three (3) injunctions:

- (a) Interlocutory Injunction. (5 marks)
- (b) Mareva Injunction. (5 marks)
- (c) Anton Piller Injunction. (5 marks)
- (d) Mandatory Injunction. (5 marks)
- (e) Prohibitory Injunction. (5 marks)

QUESTION 4 (15 Marks)

Emran has entered into a Construction Agreement with Charles, a contractor to do a renovation of his house for the sum of \$75,000.00. Emran has paid \$30,000.00 as down payment with the balance to be paid progress payment. However, Charles has failed to complete the renovation works and has lead Emran to seek redress to the Court for damages for breach of contract. Upon trial Charles has been ordered by the Court to pay Emran \$50,000.00 as damages for breach of contract.

Emran has approached you for advice in respect of the proper enforcement of Judgment as follows:

- (a) Writ of Sale and Seizure. (5 marks)
- (b) Judgment Debtors Summons. (5 marks)
- (c) Garnishee Proceedings. (5 marks)

QUESTION 5 (15 Marks)

“Costs” is a common law term that refer to legal fees and disbursement pertaining to civil litigation. Generally speaking an award of costs is an order directed at the unsuccessful party to compensate the legal expenses of the successful party. This general rule is known by the principle “Costs follow the event”.

With reference to the Rules of the Supreme Court and decided cases clarify the types of costs to be awarded in three (3) of the following:

- (1) Costs follow the event but with exceptions. (5 marks)
- (2) Party to party costs. (5 marks)
- (3) Indemnity costs. (5 marks)
- (4) Solicitor and own client basis. (5 marks)
- (5) Common fund basis. (5 marks)
- (6) Trustee’s costs (5 marks)

QUESTION 6 (15 Marks)

In Civil Proceedings the unsuccessful party has a right of appeal against the judgment of the Court from the Subordinate Court stage up to the Privy Council. Discuss the appeal process in any three (3) of the following Appeal with reference to the Statutory Provisions:

- (1) Appeal from the Subordinate Court to the High Court. (5 marks)
- (2) Appeal from Registrar and Judge. (5 marks)
- (3) Appeal to the Court of Appeal. (5 marks)
- (4) Appeal to the Privy Council. (5 marks)

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