



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)

Ahmad has appointed you to act as his solicitor in a civil trial for personal injury claim against Abdullah. The pleadings of the suit have been closed and parties are ready for trial.

Being his solicitor, Ahmad is entitled to be advised on the following trial processes by reference to the Rules of Supreme Court and decided cases. You are to advise Ahmad on any four (4) of the processes:

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| (i) Order of Speeches. | (2½ marks) |
| (ii) Adjournment. | (2½ marks) |
| (iii) Examination in Chief. | (2½ marks) |
| (iv) Cross-examination. | (2½ marks) |
| (v) Re-examination. | (2½ marks) |
| (vi) Tendering of evidence during trial. | (2½ marks) |
| (vii) Submission. | (2½ marks) |
| (viii) Delivery of Judgment. | (2½ marks) |

QUESTION 2 (15 Marks)

James has succeeded in his claim against Mustapha for a sum of \$300,000.00 for good sold and delivered and have also awarded costs of \$10,000.00

James has sought your advice on the enforcement of the judgment against Mustapha as Mustapha have refused to pay James.

Please advise James on any two (2) of enforcement of Judgment by reference to Statutory Provision and cases:

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|-------------------------------|------------|
| (a) Judgment Debtors Summons. | (7½ marks) |
| (b) Garnishee Proceedings. | (7½ marks) |
| (c) Writ of Sale and Seizure. | (7½ marks) |

PART II

QUESTION 3 (15 Marks)

(a) Discovery is an important stage in the legal proceedings where parties exchange lists of documents for inspection the evidential foundation of a trial are laid.

- (i) Discuss the purpose and nature of discovery. (6 marks)

(ii) Discuss what is meant by Inspection of documents and copies. (3 marks)

(b) In Discovery an affidavit verifying list of documents have to be prepared. Clarify any two (2) of the following by reference to Rules of Supreme Court and decided cases:

- (i) Define what is Affidavit. (3 marks)
- (ii) Contents of Affidavit. (3 marks)
- (iii) Form of Affidavit. (3 marks)

QUESTION 4 (15 Marks)

The subject of Costs is canvassed primarily in Order 59 of the Rules of Supreme Court. Order 59 1(1) defines "Costs" as including fees, charges, disbursements, expenses and remuneration.

- (i) Based on the above principle, discuss the concept that the Court have the discretion to award costs. (6 marks)
- (ii) Clarify any three (3) of the types of costs by reference to Rules of Supreme Court and decided cases:
 - (a) Costs follow the event. (3 marks)
 - (b) Indemnity costs. (3 marks)
 - (c) Party to party costs. (3 marks)
 - (d) Solicitor and client costs (3 marks)
 - (e) Bullock Orders. (3 marks)
 - (f) Sanderson Orders. (3 marks)

QUESTION 5 (15 Marks)

An Appeal is the process by which a litigant seek to persuade a Court to review another Court or Tribunal decision or some aspect of it and come to a different decision.

- (a) Clarify the procedure of filing an appeal from the High Court to the Court of Appeal. (3 marks)
- (b) Discuss any four (4) of the documents to be submitted to the Court of Appeal by reference to Statutory Provision and cases.
 - (i) Notice of Appeal. (3 marks)
 - (ii) Record of Appeal. (3 marks)
 - (iii) Bundle of Authorities. (3 marks)
 - (iv) Appellant's case. (3 marks)
 - (v) Respondent's case (3 marks)

(vi) Skeletal Argument.

(3 marks)

QUESTION 6 (15 Marks)

Jimmy has approached you for legal advice with regards to application to the Court for injunctions prior to the settlement of his legal action against Ali in a complex construction case. Please advise Jimmy on any three (3) injunctions with reference to Statutory Provisions and decided cases:

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

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