



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

Faculty of Shariah and Law
Semester II, 2022/2023 Academic Session

Final Examination Question Paper

Course Code : LS5305
Course Name : Civil Procedure of The Syariah Court
Course Level : Bachelor of Laws (LL.B) & Bachelor of Shariah Law
Time : 3 hours

Reference(s) allowed:

SYARIAH COURTS CIVIL PROCEDURE ORDER, 2005

Instructions:

1. Answer **two (2)** of any three (3) from the following questions, in which Question 1 is Compulsory.
2. All answers, wherever relevant, **must be supported** by statutory provisions and case law

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

QUESTION 1 (30 Marks)

Dayang Najadi binti Kiciwa , bearing National Identity card number: 01-111000 (Y), address No. 1, Spg. 202, Kg. Siring Jalan, Negara Brunei Darussalam.

Awang Nadatang bin Jadijadian, bearing National Identity card number: 01-111001 (Y), address No. 2, Spg. 212, Kg. Tengah Jalan, Negara Brunei Darussalam.

Dayang Najadi has come to your office to complain about her wedding that was supposed to take place 2 weeks ago and did not happen when her fiance, Awang Nadatang bin Jadijadian did not show up on their wedding date.

Dayang Najadi told about her getting to know Awang Nadatang 10 months ago during they attended a 7-day course together in Tanjung Sikui. After the course ended, they often go out together in several places in the country and abroad. Dayang Najadi admitted that she was currently pregnant out of wedlock as a result of an intimate relationship with Awang Nadatang. This made them plan to hasten the marriage so that Dayang Najadi could give birth to a child while in a valid marriage.

Awang Nadatang was initially reluctant to get married because he was still married man despite under the divorce process with his current wife and was unable to finance their planning wedding expenses due to financial factors. In this case, Dayang Najadi is willing to pay the expenses so that their wedding takes place without hassle. Dayang Najadi withdrew her saving account amounting to \$35 thousand (attached bank statement) and financed money from the Bank Tanpa Riba amounting to \$45 thousand (attached bank loan document) to be given to Awang Nadatang for his wedding preparation expenses later. Since Dayang Najadi is someone who is always committed to her work as a manager, she has appointed a wedding planner to manage her wedding ceremony and engagement with Awang Nadatang later.

The absence of Awang Nadatang on their wedding day made Dayang Najadi and her family devastated and embarrassed but resumed the ceremony with a simple gathering prayer. As a result, Dayang Najadi wants to ask for advice and take legal action on Awang Nadatang and the cost of relief.

- (a) Provided that Dayang Najadi binti Kiciwa has appointed you, as her Syariah Lawyer, to commence an legal action upon Awang Nadatang bin Jadijadian for muta'ah maintenance under section 14 of the Islamic Family Law Act (Cap. 217) to the Syariah Court.

In matters of answering the question, please commence the proceeding in accordance with the forms stipulated in the Syariah Courts Civil (Mal) Procedure Order, 2005?

(20 Marks)

- (b) What is the process of validity for the purpose of service after Dayang Najadi Binti Kiciwa and her representative filing the summon case to the Registrar of the Syariah Court?

(10 Marks)

QUESTION 2 (30 Marks)

In Abdul Wahub's case against Mr Pak Tongko over the heir claim. The Plaintiff, however, did not want to pursue his case before the Syariah court.

- a) Explain further the action should Abdul Wahub take in his claim against Mr Tongko?

(10 Marks)

- b) What form did Abdul Wahub use for not pursuing the case?

(10 Marks)

- c) Who will bear the cost?

(10 Marks)

QUESTION 3 (30 Marks)

In a case of custody (*hadanah*) of childrens claim between Dayang Tipah and Awang Tunj, several witnesses were listed by Dayang Tipah to testify in the Syariah Court.

- a) State the provision procedure for Dayang Tipah to call her witnesses?
(15 Marks)
- b) One of the witnesses named Awang Banner, a brother of Dayang Tipah, who is currently serving a prison sentence at the Maraburong Prison. Discuss what provision that Dayang Tipah going to produce her brother from the Jerudong Prison to the Syariah Court?
(15 Marks)

بالتوفيق والنجاح