



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

**Faculty of Shariah & Law**  
**Semester II, 2022/2023 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 law.

**PART I**

**QUESTION 1 (15 marks)**

A trial is an adversarial process overseen by an impartial judge where each side referred to as a party, are directly adverse to one party. In a civil case, the side bring the cause of action is referred to as the Plaintiff. The party defending the action is referred to as the defendant or respondent. The Plaintiff also bears the burden of proof in a civil trial.

Having regard to the above statement as a Plaintiff's counsel you are required to advise you client pertaining to the following procedures in a Civil Trial based on the Supreme Court Rules and Cases.

- a) The order of the Speeches at a trial (3 marks)
- b) The examination of the witnesses at trial (3 marks)
- c) The tendering of exhibits during trial (3 marks)
- d) Submission at the end of Trial - (3 marks)
- e) Delivering of Judgment (3 marks)

**QUESTION 2 (15 marks)**

At a trial Ariffin have succeeded in his claim against Mustapha for the balance of the yearly charge price of the sale of his house in the sum of \$250,000.00 with costs.

Ariffin have approached you for legal advice to recover the judgment sum in respect of any two (2) of the following enforcement proceedings with reference to statutory provisions and decided cases:

- a) Writ of Seizure and Sale (7.5 marks)
- b) Judgment Debtor Summons (7.5 marks)

c) Garnishee Proceedings

(7.5 marks)

## PART II

### QUESTION 3 (15 marks)

A party who is not successful in a civil action is entitled to appeal against the decision of the Court Discuss any three (3) appeal of the Appeal procedure with reference to statutory provisions:

- i. Appeal from the Subordinate Court to High Court (5 marks)
- ii. Appeal from Registrar and Judge (5 marks)
- iii. Appeal to the Court of Appeal (5 marks)
- iv. Appeal to the Privy Council. (5 marks)

### QUESTION 4 (15 marks)

David have approached you to proceed with civil action against Charles in respect of a defamation action in a newspaper publication. The writ of Summons and Statement of Claim have been filed into Court by your firm. Charles have firm his defence to the claim. However, before the close of the pleadings, there are a number of documents that need to be disclosed to assist you in the Plaintiff's case. The process of getting the disclosure of the documents can be secured by way of Discovery and Interrogatories

Advice David the following by reference to statutory provisions and decided cases:

- i. The significance of Discovery (10 marks)
- ii. The importance of Interrogatories (5 marks)

**QUESTION 5 (15 marks)**

"Costs" is a Common law term that refers to legal fees and disbursements 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. The Court has full discretion to award but like all judicial discretion it is subject to rules of the Court and established principles.

Based on the above statement discuss **any three (3)** of the types of Costs normally awarded by the Court:

- i. Costs follow the event. (5 marks)
- ii. Indemnity Costs. (5 marks)
- iii. Solicitor and own Client Basis. (5 marks)
- iv. Bullock Order Costs. (5 marks)
- v. Sanderson Order Costs. (5 marks)
- vi. Party to Party Costs. (5 marks)

**QUESTION 6 (15 marks)**

An injunction is a Court Order that compels an individual or entity to do, refrain from doing or to stop doing, a specified thing. The source of the legislations for injunctions can be found in section 50 to 55 Specific Relief Act Chapter 109 and Order 29 Rules of the Supreme Court.

With reference to the above statement examine the difference between the Mareva Injunctions and Anton Pillar Injunction and its importance to parties in civil litigation.

(7 marks)

Discuss **any two (2)** of the following injunctions with reference to decided cases.

- i. Interlocutory Injunction (4 marks)
- ii. Mandatory Injunction (4 marks)
- iii. Prohibitory Injunction (4 marks)
- iv. Erinford Injunction (4 marks)
- v. Quia Timet Injunction (4 marks)

بالتوفيق والنجاح