

COUNCIL OF LEGAL EDUCATION



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

CIVIL PROCEDURE I

TUESDAY 29TH NOVEMBER, 2011

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **ANY OTHER THREE** Questions
- (b) Question **ONE** carries **25 marks**
- (c) All other questions carry **15 marks** each

PLEASE TURN OVER

QUESTION ONE

James Okang'a is a retailer trading in general merchandise in Kericho Town. Over the years, he has developed a pool of credit-worthy customers. One of his most trusted customers is Jonathan Lipule. On 01.06.2011, Jonathan took goods worth Kshs.300, 000 from James' shop. Previous dealings had it that all goods taken on credit were payable within 30 days. By September 2011, Jonathan had not paid for the goods. James came to your firm of legal practitioners for advice. You advised him that he had a claim in law against Jonathan. You even issued a letter of demand and notice of intention to sue. Today, James came back to your chamber to instruct you to prepare necessary documents to take Jonathan to court. As a former student of Civil Procedure, you know that you have to prepare a plaint. Draft a plaint for James' perusal. (For purposes of this question, the other documents that accompany the plaint are NOT necessary.)

(25 marks)

QUESTION TWO

Identify and explain the various factors that influence the choice of the appropriate court or tribunal in which to commence civil proceedings.

(15 marks)

QUESTION THREE

The purpose of an affidavit of service is to provide evidence to court that service of the process of court has indeed taken place. To achieve this objective, an affidavit at service must be sufficiently detailed. Identify the details that must be supplied in a proper affidavit service.

(15 marks)

QUESTION FOUR

The Supreme Court of Kenya is an important institution in the civil litigation process. It is vested with both original powers and appellate powers. State the powers of the Supreme Court under the Constitution of Kenya 2010 remembering to put them in the appropriate category of either original or appellate.

(15 marks)

QUESTION FIVE

Identify the various pleadings available in our regime of law governing the civil jurisdiction of the courts and in each case give an example of a cause of action in which the pleading is appropriate.

(15 marks)

QUESTION SIX

The defence is one of the documents that are often used in civil litigation. Like any other document of procedure, it is governed by rules. Highlight the rules that one must keep at the back of his mind in drafting a defence.

(15 marks)
