



**ZCAS UNIVERSITY**  
**COMMERCIAL & LLB LAW PROGRAMME**  
**L322 CIVIL & CRIMINAL PROCEDURE**  
**MID-TERM EXAMINATION (FT & DE)**

**OCTOBER, 2023**

**TIME ALLOWED: THREE (3) HOURS (plus 5 minutes to read through the paper)**

**INSTRUCTIONS:**

- 1) This paper consists of FIVE (5) questions, you are required to answer FOUR (4). Question one is compulsory. Choose 3 questions from section B.
- 2) This examination paper carries a total of 20 marks towards your continuous assessment.
- 3) Candidates are permitted to bring a clean copy of the Subordinate Court Act Cap 28 of the Laws of Zambia into the examination room:
- 4) Candidates shall not turn this page until the invigilator tells them to do so.

## SECTION A: THIS SECTION IS COMPULSORY AND MUST BE ATTEMPTED

### Question 1

Leah of Ibex Hill in Lusaka is a blogger whose facebook page has over 2 million followers. She also sells an assortment of clothes and cosmetics which she advertises on her Facebook page. Due to her huge social media following and social influence, some business entities approach her with business deals to advertise their goods and services on her Facebook page and Instagram account at a fee. On 17<sup>th</sup> July 2023, Cru Cru Investments Limited a newly established company dealing in the manufacture of synthetic human hair and various cosmetics based in Chibombo District entered into an agreement with Leah to advertise their products on her social media accounts stated above at a weekly charge of K105,000.00. To Leah's surprise, Cru Cru Investments Limited only paid Leah for 1 week and has for the subsequent weeks given countless excuses and made unfulfilled promises to pay. When Leah phoned Dr .Lingyan the CEO of Cru Cru Investments Limited for payment, Lingyan called Leah a money hungry and good for nothing person who must learn to be patient in business. Leah decided to report Lingyan to Emmasdale Police Station under Cyber laws but the Police have not been willing to take any action against Lingyan for the past 3 months. Leah is aggrieved and wishes to engage a lawyer to help her recover the outstanding debt and commence criminal proceedings for a cybercrime against Lingyan but does not know how to go about doing this and has learnt that you are now a lawyer. Citing relevant legal authorities, advise Leah on what she can do in each of the following circumstances;

- a. The various modes of commencing a civil action and the most appropriate method Leah can employ on the facts of this case. (10 marks)
- b. In the event that Leah obtains a judgement in her favour against Cru Cru Investments Limited, how would she enforce it? (5 marks)
- c. How Leah can institute criminal proceedings against Lingyan? (10 marks)

Cite not less than 4 cases.  
[TOTAL 25 MARKS]

## PART B: ANSWER ANY THREE QUESTIONS FROM THIS PART

### Question 2

- a. Banda was among 13 students from Talisman University who were rounded up by Police Officers for staging a demonstration against the University Senate for poor water reticulation within the University Campus and Hostels which students argued would cause an outbreak of a disease. The students were singing and chanting anti-Vice-Chancellor songs/slogans and took to the main road side where they stoned innocent



motorists who were passing-by extensively damaging their property. Police officers swiftly moved in and quelled the demonstration. 13 suspected ring leaders were taken into Police custody and detained at 4 different Police stations. The Police officers declined to grant a Police bond to Banda. Banda has retained you to represent him when the case comes up for hearing and wishes to apply for bail. Citing relevant authorities, advise Banda on the considerations Courts take for the grant of bail pending trial.

(7.5 Marks)

- b. In the case of *Anderson Mazoka & 2 Others v Levy Patrick Mwanawasa & 2 Others* (2005) ZR 138 the Supreme Court held thus:

*“Once the pleadings have been closed, the parties are bound by their pleadings and the court has to take them as such.”*

Discuss the above holding clearly explaining what pleadings are and the functions they perform in the litigation process.

(7.5 Marks)

[TOTAL: 15 MARKS]

### Question 3.

- a. Chewe was sued by Chimweka in the Chongwe Subordinate Court. When effecting service of court process, Chimweka went to Chewe’s residence and left the court documents with Chewe’s maid and later obtained a Judgement in Default against him which he also later served on Chewe when he met him at church on a Sunday. Chewe wishes to defend the action and has come to you for legal representation. Advise Chewe on the steps you will take to protect his interest and list down the documents you will prepare to file into Court.

Cite relevant authorities.

(8

Marks)

- b. John and Peter are roommates at ZCAS University. On 12 September, 2023, John noticed that his MacBook laptop computer had gone missing from the room. He asked his roommate if at all he had seen his laptop but Peter strongly denied. John rushed to the Police and reported the theft which resulted into the arrest of Peter and his subsequent detention at Kabwata Police Station. After investigations, the Police recovered the stolen laptop in Town from a Mr Charles Kombe, a teacher at Chibolya Basic School who claimed to have purchased it from Peter. Peter’s relatives approached John and apologized on his behalf and requested John to withdraw the criminal charges against their relative. Citing relevant authorities, discuss how charge(s) can be withdrawn.

(7 Marks)

[TOTAL: 15 MARKS]

### Question 4

(a) The Commercial Registry and General/Principal Registries are part of the Divisions of the High Court established under the Constitution of the Republic of Zambia. Despite both registries being civil registries, they differ significantly in many respects. Citing relevant legal authorities, discuss the similarities and differences between the 2 registries  
(10 Marks)

(b) Mundia obtained a Court Judgment against Simasiku in the Mongu High Court and has effected service of the same on Simasiku. Simasiku has come to your chambers to seek legal advise on the way forward. Advise Simasiku on the options available to him on how to deal with the issue.  
(5 Marks)

[TOTAL: 15 MARKS]

**Question 5.**

Explain what is meant by the term injunction and what considerations do Courts take into account when granting an injunction? Cite relevant authorities to support your answer. Cite at least 4 cases.

[TOTAL: 15 MARKS]

**END OF EXAMINATION**