

**Motion Court Proceedings**  
**and Information and Communications Technology**  
**Regulations 7(9)(b) and 7(9)(i)**

**Paper 1**

12 APRIL 2023

2 Hours

09:00 - 11:15

*Candidates are allowed 15 minutes to read the paper before answering the questions. No candidate may start writing in the answer book during this period. The examination of 2 hours then follows.*

**PLEASE NOTE:**

1. Please write the number allocated to you on the cover of your answer book.
2. Candidates **must** write legibly and neatly. ANSWERS MUST BE WRITTEN IN INK OR WITH A BALLPOINT PEN.
3. Please use only **the front** side of each page.
4. Except if a special reason exists, a candidate will not be required to do an oral if a 50% aggregate or more is attained. If a candidate achieves an aggregate of between 40% and 49% he/she will be required to do an oral exam to convince the examiners that he/she does have sufficient knowledge to pass the exam. Candidates who attain less than 40% will have failed this examination.

**TOTAL MARKS: [50]**

## Read all the text below and answer all the relevant questions.

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1. Explain the ascending order of urgency in *Luna Meubel Vervaardigers (Edms) Bpk v Makin (t/a Makin's Furniture Manufacturers) 1977 (4) SA 135 (W)*. [4]
2. True or false? - The court has a general discretion to refuse a final interdict even when the applicant has satisfied the test for a final interdict. [1]
3. A judge has given judgment in the High Court on your matter. Your attorney is aggrieved by the judgment since his client lost the case. Your attorney briefs you to review the decision of the judge. Is that appropriate? What should you do and why? Motivate your answer. [6]
4. Is it permissible to serve court process on a judge? If yes, what do you need to advise your attorney to do? If no, motivate your answer. [4]
5. Your attorney is perplexed. Never before has your attorney seen a plea in the High Court in which the defendant has pleaded to every allegation in the particulars of claim, including the citation of the parties, the following phrase:  

“The defendant denies each and every allegation contained in this paragraph under reply and puts the plaintiff to the proof thereof.”

The plea clearly does not comply with Rule 22 of the Uniform Rules of Court. What would you advise your attorney to do? Remember, this exam deals with the Motion Court. Address your answer accordingly. Your advice may include practical, sensible advice on what to do when the lawyers for the other party have not applied the Uniform Rules correctly. [10]
6. What is the Plascon-Evans test? When is it applied? How is it applied? [10]
7. You foresee an irresolvable dispute of facts will arise on the papers. Yet you are obliged to proceed by way of motion proceedings. Set out what applications must proceed in the motion court, despite your foresight of a dispute of fact arising [5]
8. What is the essence of, and the requirements for, a *mandament van spolie*. [5]
9. Are people entitled to conclude contracts by WhatsApp without the use of an advanced electronic signature as defined in the Electronic Communications and Transactions Act 25 of 2002? Motivate your answer. [5]

**END OF QUESTIONS**

**TOTAL MARKS [50]**