



RHODES UNIVERSITY
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CIVIL PROCEDURE B COURSE OUTLINE

YEAR: 2009

LECTURER: GW BARKER

1. OVERVIEW

This course is aimed at ensuring that students are well equipped to attend the handling of a simple civil claim. The purpose of the course is to enable students to know the theory of civil procedure, while also providing students with the necessary skills to put their knowledge into practice. The course will cover both Magistrates' Courts as well as the High Court.

2. ASSUMPTIONS OF PRIOR LEARNING

An ability to read, understand and extract relevant information from statutes and case law. An introduction to the subject in the form of Civil Procedure A or its equivalent.

3. SPECIFIC OUTCOMES

At the end of this course students will be able to demonstrate the following:

- a broad knowledge of Magistrates' Court and High Court procedure
- an ability to explain the general principles of the application procedure, 'on notice' applications, *ex parte applications* and urgent applications.
- an ability to explain the requirements of selected applications: substituted service, edictal citation, interdicts, mandamentem van spolie, arrest *tamquam suspectus de fuga, de lunatico inquierendo* - appointment of curators, Anton Piller orders.
- an ability to explain the procedure of provisional sentence
- an ability to explain the distinction between attorney and client costs and party and party costs as well as the salient features of the law governing awards of costs.
- an ability to distinguish between appeals and reviews and to outline the specific steps that must be taken in respect of each of these procedures.
- an ability to explain rescission of judgment
- an ability to explain the various procedures applicable to the enforcement of judgments as well as a debtor's recourse to an administration order as a mechanism to assist a debtor unable to pay his debts.

4. CRITICAL OUTCOMES

Students will be able to:

- analyse and evaluate information
- work in a team
- communicate effectively in writing

5. TEACHING METHOD

Lectures will be delivered twice a week. Generally a topic will be introduced in a formal lecture. Students are expected to refer to the actual text of the Supreme Court Act 59 of 1959, the Magistrates' Court Act 32 of 1944 as well as the Rules of Court of each of these courts. Various text-books will be referred to in lectures but none are prescribed.

6. ASSESSMENT

The class component of this course counts 30%. This will be assessed on the basis of one class test counting 15%, one assignment counting 12% and one group exercise counting 3%.

SPECIFIC OUTCOMES	ASSESSMENT CRITERIA
Students are expected to be able to:	Students must:
Demonstrate a broad knowledge of the procedures utilised in the High Court and the Magistrates' Court in conducting a civil claim	Answer correctly questions concerning the procedures utilised in civil cases in the High Court and the Magistrates' Court. Explain the context of the various procedures Explain the purpose of the various procedures.
Demonstrate an ability to identify the most appropriate response to any procedural step taken by an opposing litigant and to evaluate the utility thereof	Identify the possible responses Explain the advantages of making particular responses
Demonstrate an ability to describe and explain the context of procedures commonly utilised in civil claims	Describe the context of various procedures Explain the context in which the procedures are utilised
Demonstrate an ability to relate civil procedure to substantive law in the form of commonly occurring applications	Identify the essential averments that must be made in affidavits supporting commonly occurring applications
Demonstrate an ability to work in groups	Draft commonly occurring applications and present them to the class in a group presentation

7. COURSE CONTENT

- 7.1 Application procedure, including 'on notice' applications, *ex parte* applications and urgent applications.
- 7.2 The procedure of commonly occurring applications, for example:
 - 7.2.1 substituted service and edictal citation
 - 7.2.2 interdicts,
 - 7.2.3 mandamentem van spolie,
 - 7.2.4 arrest *tamquam suspectus de fuga*,
 - 7.2.5 *de lunatico inquierendo* - appointment of curators,
 - 7.2.6 Anton Piller orders,
- 7.3 Provisional sentence.
- 7.4 Appeals and Reviews
- 7.5 Rescission of judgments
- 7.6 Enforcement of judgments
 - 7.6.1 Executions
 - 7.6.2 Debt collections
- 7.7 Administration orders
- 7.8 Law of costs