

Name:

Enrolment No:



**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**  
**Online End Semester Examination/ Supplementary Examination, December 2020**

**Course: Civil Procedure Code-I**

**Programme: BBA.LL.B. , B.com. LL.B., BA. LL.B, BSc. LL.B.**

**Semester: V**

**Course Code: CLCC-3004**

**Time: 03 hrs.**

**Max. Marks: 100**

<b>S. No.</b>	<b>SECTION A (6 questions x 5 Marks= 30 Marks)</b> <b>1. Each Question will carry 5 Marks</b> <b>2. Instruction: Write Short notes on the following (write down each answer in 50 words only). Please follow the word limit strictly. Avoid unnecessary elaboration.</b>	<b>Marks</b>	<b>CO</b>
1	Process of instituting a civil suit as per Civil Procedure Code, 1908.	5	CO1
2	Modes of serving summons as per order V of Civil Procedure Code, 1908.	5	CO2
3	Grounds of rejecting a plaint as per appropriate provision of Civil Procedure Code, 1908.	5	CO1
4.	Foreign judgment when conclusive	5	CO3
5	Elements of a decree	5	CO2
6	Transfer of cases as per Civil Procedure Code, 1908.	5	CO1
	<b>SECTION B (5 question x 10 Marks= 50 Marks)</b> <b>1. Each question will carry 10 marks</b> <b>2. Instruction: Write each answer in 200 words only.</b>		
7	The words “Civil nature” are wider than the words “civil proceedings”. The section would, therefore, be available in every case where the dispute has the characteristic of affecting one’s rights, which are not only civil, but of civil nature (AIR 1995 SC 2001). Analyse this statement in the light of section 9 of Civil Procedure Code, 1908.	10	CO2
8	X and Y are partners in an unregistered partnership firm. The firm has to recover a sum of Rs. 1, 00, 000 from Z. X files a recovery suit in the name of the firm. Z raises a preliminary objection that the suit is not maintainable, as the partners are not impleaded as plaintiffs in the suit. Thereafter X and Y move an amendment application to add their name as plaintiffs.	10	CO3

	Analyse the stated facts and decide the fate of that application in the light of legal provision and case laws on the point if any.		
9	<p>“One cardinal principle to be observed in trial by a court obviously is that a party has a right to appear and plead his cause on all occasions when that cause comes on for bearing and that it follows that a party should not be deprived of that right, unless the code of civil procedure deprives him of it.”</p> <p>On the basis of above statement, determine whether a party can seek setting aside an ex-parte decree. If so, on what grounds? Use appropriate legal provision and case law on the given issue if any.</p>	10	CO4
10	University A and University B jointly filed a suit for injunction to restrain the defendant X from publishing a book having the title “ <b>The A and B University Publications</b> ”. The defendant challenged the right of plaintiffs to sue jointly. Decide this in the light of legal provisions and state the consequence of mis-joinder/non-joinder of necessary and proper parties.	10	CO3
11	<p>Mr. X sues Mr. Y on a promissory note. Mr. Y alleges in his written statement that plaintiff has wrongfully neglected to ensure defendant’s goods and is liable to him in compensation which he claims to set-off.</p> <p>Analyse this issue based on legal provision.</p>	10	CO3
	<p><b>Section C (2 questions x 10 Marks= 20 Marks)</b></p> <p><b>1. Each Question carries 10 Marks.</b></p> <p><b>2. Instruction: Write long answer. Write each answer in not more than 500 words.</b></p>		
12	<p>(a) A files a suit for arrears of rent of 6 months against B and in describing his cause of action he also specified the nature of the rented property and also that the area of the property was 850 sq. ft. However, he did not claim any relief with respect to that area. The defendant controverted the issue of arrears of rent but did not raise any issue about the area. The court after the trial decreed the suit in favour of the property owner A and observed that the total area of the rented property was 950 sq. ft and not 850 sq. ft. In a subsequent suit, there was an actual dispute between the parties upon the area of the rented property. Will Res-Judicata will apply. Decide</p> <p>(b) Ms. Rama had taken a loan of Rs. 45000 from A. She did not pay the loan amount within the agreed period. A filed a suit for the recovery against Ms. Rama. The suit had decreed in his favour. A filed an execution petition but the decree was not satisfied. A filed an application under section 55 of CPC, 1908</p>	10 x 2= 20	CO4

	for the arrest and detention of Ms. Rama. Decide this application based on legal provision and state law relating to arrest and detention in civil matters.		
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