

Learning Units

Learning Units

Learning unit 10: Pleading stage: Drafting applications

Prescribed reading

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Read chapter 10 of Marnewick (prescribed textbook).

According to Marnewick: *"Applications differ from actions mainly in the way the evidence is presented to the court. In an action, which is initiated by the issue of a summons and then proceeds through the stages of pleadings... the evidence is presented to the court by way of oral evidence. In an application, which is initiated by the issue of a notice of motion (or a notice of application), the evidence is presented to the court in the form of affidavits."*

In chapter 10, Marnewick provides an overview of the distinguishing features of application proceedings and their drafting in terms of form and style.

Learning outcomes

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On completion of Learning Unit 10, you should be able to:

- provide an overview of the nature, scope and content of applications and their drafting specifics
- draft affidavits
- draft applications

Activity

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Using Appendix A of Marnewick assume that a declaration was prepared for Mrs Smith suing the insurance company. Assume that it had been preceded by an unsuccessful summary judgment application. Draft the notice and affidavit for the plaintiff's summary judgment application after reading *Paddy's Investments (Pty) Limited v Moolman Brothers Construction Co (Pty) Limited* 1982 (1) SA 249 (D). Discuss your answer on myUnisa under **Forum 4 (discussion 11)**.

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