

**COURSE: AC201/2012**  
Page 1 of 3

**UNIVERSITY OF SWAZILAND**  
**DEPARTMENT OF ACCOUNTING**  
**AC 201 SUPPLEMENTARY EXAM PAPER**

Programme of Study:                      Diploma in Commerce (IDE) & B.Ed.  
  
Title of Paper:                              Commercial Law  
  
Course Code:                                AC 201  
  
Time Allowed:                              3 Hours

**INSTRUCTIONS:**

- 1. The total number of questions in this paper is six (6)
- 2. Answer any 4 [four] questions
- 3. Each question carries 25 marks
- 4. In answering any question, note that the quality of the content, use of authority, clarity of expression and legibility of handwriting are absolutely essential.

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.**

**QUESTION 1**

(A) The doctrine of judicial precedent does not mean that decisions of judges in earlier cases must “always” be followed. Explain. [10 Marks]

(B) Explain the status of the Constitution in the Swaziland legal system, with reference to authority. [4 Marks]

(C) What was the ruling on “custom as a source of law” in the case of *Van Breda v Jacobs* 1921 AD 330? [4 Marks]

(D) Briefly discuss the basic methods of Alternative Dispute Resolution (ADR) [7 Marks]

**[TOTAL: 25 Marks]**

**QUESTION 2**

Mpho wants to buy a house and goes to a show day for a new town house. She does not have her Identity document with her and so the salesman tells her to return the next day to sign the contract. She is worried that other people will buy the house, and so she asks the salesman to enter into a verbal agreement to sell the house to her. He agrees and she hands him E1 000 deposit. He issues her a receipt and she goes home. The next day she returns and the house has been sold to someone else. Advise her.

**[25 Marks]**

**QUESTION 3**

Jacob is a politician who does not want a journalist to write embarrassing stories about him, so he hires Benny to kill the journalist. Jacob pays E10 000 to Benny who takes the money and then refuses to kill the journalist. Jacob asks for his money back, but Benny refuses and demands an extra E20 000 to keep quiet. Jacob sues Benny in court, and Benny makes a counter-claim.

Discuss the prominent legal issue and state the most likely outcome of this matter with reference to authority.

**[25 Marks]**

**QUESTION 3**

With reference to case law, discuss the law relating to 'an implied warranty against eviction', and the defence available to a party who is threatened with eviction.

**[25 Marks]**

**QUESTION 4**

Jolwane is 17 years old. His parents go on holiday leaving him alone in their house. He is given an adequate allowance and told not to buy anything on credit. Without telling his parents, he decides to host a party. He purchases ten crates of beer from a bottle store on credit for E 300. Only seven crates are consumed, but he keeps the balance for himself. Jolwane goes to the store and pays E50 towards the debt from his own money. He promises to pay the whole amount within a week. After a month Jolwane has still not paid the debt. Advise the Store-owner of his legal position as regards the minor.

**[25 Marks]**

**QUESTION 5**

Discuss the various methods of formation of Agency.

**[25 Marks]**

**QUESTION 6**

In the case of *Lammers and Lammers v Giovannoni* 1955 (3) SA 385, the credit receiver of a car sold it to another person who stripped it, and sold the chassis yet to another person. The credit grantor, still the owner, succeeded in regaining possession of the car. The dispossessed buyer called on the seller to assist him in defending his claim, but the seller did not do so.

The court held that once the seller had failed to come to the assistance of the buyer, the seller was not able to claim that the buyer should have been more vigorous in the buyer's defence of possession.

Discuss the law pertaining to a dispute of this nature, the legal issues in this case, as well as the basis of the court's decision *in casu*.

**[25 Marks]**

**END OF EXAM**