

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DIPLOMA IN COMMERCE
EXAMINATION PAPER – JULY 2018
(SUPPLEMENTARY)

TITLE OF PAPER: COMMERCIAL LAW

COURSE CODE: AC 102

TIME ALLOWED: THREE (3) HOURS

MARKS ALLOCATED: 100 MARKS

INSTRUCTIONS:

1. Answer any 4 (four) questions of your choice.
2. Each question carries 25 marks
3. In answering your questions, note that the quality of the content, proper use of case law authorities (where applicable), clarity of expression and legibility of handwriting are absolutely essential. Presentation is of essence.
4. Begin each question in a new page.

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSSION HAS BEEN
GRANTED BY THE PROCTOR.**

Question 1

[A] Define what is a contract and clearly list the five (5) essentials required to have a valid contract.

(10 marks)

[B] Briefly discuss any 3 ways through which contractual obligations can be terminated.

(15 marks)

[25 marks]

Question 2

Sam a young recently married business entrepreneur won a tender to supply safety clothing to a new construction company at Ezulwini worth 8 Million Emalangeni, through a very vigorous, competitive and legal process. Pedro a Director of the construction company secretly approaches Sam and tells him, "I remember you from high school, about 10 years ago, and I knew Thoko, your side chick at that time". Pedro then persuades Max that they must enter into a contract where Max will sell the safety clothing to the construction company at half the awarded tender cost, being 4 Million Emalangeni, or else he will make sure that his past will haunt and destroy his new found love and marriage.

Emmanuel who is Sam's partner in the business realizes that at 4 Million they will barely be able to supply all the safety clothing as required and let alone make any profits, and advises Sam that this new deal from the contract he has signed with Pedro is not good for their business.

Max having sleepless nights knowing what happened approaches you and seeks advice on what can be done to resolve the problem before him.

With reference to case law, advise Sam of the legal issues that are raised in this case.

[25 marks]

Question 3

Write short notes on the following

- a) Child emancipation (5 marks)
- b) Negotiable Instrument (5 marks)
- c) Duress (5 marks)
- d) Unjust Enrichment (5 marks)
- e) Cession out and out (5 marks)

[25 marks]

Question 4

Granny Isabella has engaged her grandson Keith to sell her luxury car a Porsche Panamera, as she can no longer drive due to her old age and ill-health. Granny Isabella gives Keith the following instruction, "This car is worth E1, 8Million, find me a buyer for this price and no less, and I will give you a commission of 10% for your good work."

Kaizer hears about the sale and offers Keith the E1, 8Million asking price. Keith returns to his Grandmother and tells her that after a diligent search he has only been able to secure a buyer Mr. Kaizer who will buy the car for cash at E1, 5Million and this is a good deal. His Grandmother says let him go ahead and close the deal at E1, 5Million.

Keith sells the car to Kaizer for E1, 8Million and remits E1, 5Million less his 10% commission to his Grandmother.

A few months later, Granny Isabella discovers that Keith had actually sold her car for E1, 8Million. With the aid of case law, advise Granny Isabella of all the legal issues and possible remedies available to her in light of this new information.

[25 marks]

Question 5

[A] Define what is a Partnership and list any 5 things to be included and be part of a Partnership Deed document.

(10 marks)

[B] What is meant by the legal personality of Companies?

(15 marks)

[25 marks]