

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION PAPER, JULY 2008

TITLE OF PAPER : LAW OF DELICT

COURSE CODE : L 306

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- 1. ANSWER ANY FOUR (4) QUESTIONS. MARKS ARE INDICATED AT THE END OF EACH QUESTION.**
- 2. CANDIDATES ARE THEREFORE ADVISED TO ALLOCATE THEIR TIME ACCORDINGLY.**

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

QUESTION 1

Dlamini was suspected of infidelity by his wife. She hired a private detective, Mavuso, to spy on her husband Dlamini. Mavuso followed Dlamini in his car to a lonely spot in the veld. Dlamini had a woman with him in his own car. When Mavuso approached Dlamini's car, Dlamini started to drive off. Mavuso kept onto the bonnet in order to obscure Dlamini's view and so make him stop. Dlamini accelerated, however, and drove zig-zag, clearly with the object of dislodging Mavuso, who was clinging on for dear life. Six kilometres further Dlamini succeeded in dislodging Mavuso. Mavuso sustained serious injuries.

Mavuso has come to you for advice.

[25 marks]

QUESTION 2

Simelane was injured when employees of Gama, in demolishing scaffolding around a building in a negligent manner, caused a pole to fall down which struck Simelane on the back of his head and neck. A few years earlier, Simelane had been stabbed in the forehead with a knife and in the following operation to extract a piece of blade, a portion of his skull bone was removed. At this spot the skin became attached to the brain. This fact had the result that in the present case the blow of the pole against the back of the head and neck caused a more serious brain injury than otherwise would have been the case.

Discuss, illustrate your answer with decided cases.

[25 marks]

QUESTION 3

Veronica's husband, after drinking some tea, experiences persistent vomiting for a period of three hours. Along with two other men who had also drunk the tea and who were in a similar condition, he went to the casualty department of a hospital. A nurse (against whom no complaint was made) contacted Dr. B Anguiah by telephone, telling him that the three men, Emmanuel, John and Vusie were complaining of vomiting after drinking tea. Dr. Anguiah, who was himself tired and unwell, sent a message to them through the nurse to the effect that they should go home to bed and call their own doctors. Some time later, Emmanuel, Veronica's husband died from arsenical poisoning.

Veronica wishes to bring an action. Advise her.

[25 marks]

QUESTION 4

Mdluli and his girlfriend Nomcebo meet Malindzisa at Zuny's Bar and ask him for a lift to a nearby hotel. Malindzisa reluctantly agrees to take them to the hotel, but before he leaves the bar, he consumes a substantial amount of liquor despite the protests of Nomcebo. They leave the bar and just as they are approaching the hotel Malindzisa loses control of the car, which swerves towards an oncoming lorry.

Fearing for his life Mdluli, jumps out of the car and is seriously injured. The lorry driver manages to avoid a collision and Malindzisa's car is undamaged. Nomcebo is uninjured, but as a result of the incident has to be admitted to a psychiatric hospital for a month.

Discuss the possible actions that Mdluli and Nomcebo can bring against Malindzisa and any defences that may be available to Malindzisa. [25 marks]

QUESTION 5

The cricket field of the X cricket club adjoins a freeway. During a match one of the players of X hits the ball, which shatters the windshield of Y's sportscar in the process. Y who has been speeding at 120 km/h loses control over his car and is killed in the ensuing accident. In response to the delictual claim by Z, Y's wife, X denies any liability on the ground of lack of negligence on its player's part. Discuss the merits of this defence.

[25 marks]

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SUPPLEMENTARY EXAMINATION PAPER
JULY 2008
ACADEMIC YEAR 2007/2008

PROGRAMME OF STUDY : BACHELOR OF LAWS
YEAR OF STUDY : YEAR THREE (3)
TITLE OF THE PAPER : ACCOUNTING FOR LAWYERS
COURSE CODE : L307 (S) 2008
TIME ALLOWED : THREE (3) HOURS
TOTAL MARKS : 100
INSTRUCTIONS 1 There are four (4) questions, answer all.
2 Begin the solution to each question on a new page.
3 The marks awarded for a question are indicated at the end of each question.
4 Show your necessary workings.

NOTE: You are reminded that in assessing your work, account will be taken of accuracy of the language and the general quality of expression, together with layout and presentation of your answer.

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SPECIAL REQUIREMENT: NONE

QUESTION 1:

At 30th April 2008, your Business Cash Book (bank column) showed that you had a **debit balance** amounting to E1,900. On receipt of the Business Bank Statement from the bank for the month of April 2008, you found that the above balance shown in your Business Cash Book did not agree with the amount shown on the Business Bank Statement. The Business Bank Statement showed an **unfavourable** balance amounting to E328 as at 30th April 2008. On comparing the entries in your Business Cash Book with those on your Business Bank Statement, you found the following:

- a) A business debtor K. Thawala, has paid direct into your bank account the sum of E140;
- b) The bank has debited you with bank charges of E40;
- c) A "Stop Order" for rent has been paid by the bank, for E700;
- d) A cheque received from a debtor X. Xaba, for E340, which you paid into the bank on the 10th April 2008 has been dishonoured;
- e) A cheque for E206 for electricity which had been paid on 4th April 2008 has been wrongly entered in the cash book as E260;
- f) The balance on the cash book at 1st April 2008 had been incorrectly brought down as E1,300, the correct balance being E1,500;
- g) A cheque paid to creditor B. Hlophe in March 2008, for E200 had still not been presented to the bank for payment;
- h) Two cheques paid to B. Brown, and C. Zwane on 29th April 2008 for E65 and E87 have not yet been presented to your bank;
- i) Three cheques for E645, E289 and E324 paid into the bank on 30th April 2008 have not been credited to your bank account;
- j) A payment of an amount of E68 on the 16th April 2008 to the Water Board has been entered on the wrong side of the cash book;
- k) On 10th April 2008 you had drawn a cheque on your Private Bank Account for E500 but you find that the bank has debited your Business Bank Account.

Required:

(A) Bring your Business Cash Book up to date together with any necessary correction.

(14 marks)

(B) Prepare a bank reconciliation statement as at 30th April 2008.

(13 marks)

(Question 1 - Total Marks: 27)

QUESTION 2:

You have agreed to act on behalf of Thobile Craft (Pty) Ltd. in a case against Sidney Mkulu. The following were the financial transactions in connection with the case:

1. Received a deposit from Thobile Craft of E150 which was deposited in the Trust Bank account;
2. Paid the sheriff E30 for delivery of summons, from Business Bank account;
3. You instruct Counsel (Advocate J Dlamini) who marks his brief E100 for the drawing of the declaration and replication;
4. Counsel (Advocate J Dlamini) marks his brief E400 for attending on trial;
5. Thobile Craft (Pty) Ltd. win the case and the following bill was taxed as between party and party:

Sheriff's costs	15
Counsel's fees	250
Your fees	400

	E665

6. The following account was rendered by you to Thobile Craft (Pty) Ltd. as between Attorney and client:

Sheriff's costs	15
Counsel's fees	250
Your fees	100

	E365

7. Received from Sidney Mkulu the amount of E665 in full payment of the amount due from him;
8. You make the permissible transfer from Trust to business;
9. Received the balance of the account from Thobile Craft (Pty) Ltd;
10. Paid Advocate J Dlamini in full.

(Question 2 – continued)**Required:** Record the above transactions in the following books:

- | | |
|------------------------------|-------------------|
| (a) Clients' Business Ledger | (10 marks) |
| (b) Client's Trust Ledger | (7 marks) |
| (c) Business Cash Book | (4 marks) |
| (d) Trust Cash Book | (3 marks) |
| (e) General Journal | (2 marks) |
| (f) Fees Journal | (2 marks) |
| (g) Transfer Journal | (2 marks) |

(Note: Folio columns must be completed)

(Question 2 - Total Marks: 30)**QUESTION 3:**

You act for Mr. Smith in a property transaction. The following transactions take place in regard to the sale of Mr. Smith's property.

- (a) Receive instructions from the seller to transfer property for E100,000.
- (b) Receive a guarantee for E60,000 from the bond-holder.
- (c) Receive a deposit of E10,000 and estimate costs (called pro-forma costs) of E8,000 from the purchaser.
- (d) Receive E30,000 from the second bond-holder.
- (e) Pay transfer duty, rates and electricity certificate.
- (f) Transfer is registered.

Required:

Explain the accounting treatment (the action you would take and the entries you would make) you will make in your books in regarding to the above transactions.

(Question 3 - Total Marks: 24)**QUESTION 4:**

- (A) Why should we use the 'Double Entry System'? **(8 marks)**
- (B) Write short notes on:
 - (i) Trust Money and Business Money **(6 marks)**
 - (ii) Trust Creditors and Business Creditors **(5 marks)**

(Question 4 – Total Marks: 19)**END**