

UNIVERSITY OF SWAZILAND  
INSTITUTE OF DISTANCE EDUCATION  
MAIN EXAMINATION PAPER, MAY 2010

TITLE OF PAPER	:	LAW OF DELICT
COURSE CODE	:	1DE – DLO25
TIME	:	THREE HOURS
INSTRUCTIONS	:	ANSWER ANY FOUR QUESTIONS
TOTAL MARKS	:	100

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION TO DO SO HAS BEEN  
GRANTED BY THE INVIGILATOR

Delict final exam 2010

Instructions

- a) Answer any four questions
- b) Your answer must be cogent, reasoned and well organised
- c) Read and understand what the question requires of you
- d) All questions carry equal marks

QUESTION 1

Gciyane Dlamini is a woman who is HIV positive and has had her status disclosed in a magazine for the youth. She is desirous of instituting legal action as she feels that it was inappropriate for the publishers of the Youth magazine to disclose her name without her consent.

She has approached you for legal advice. You are required to identify all the legal issues herein. State in particular whether, there has been a violation of her rights and what they are.

(25)

QUESTION 2

A delict has been defined by stating what it is not. Define what a delict is, and include in your answer a full discussion of what you perceive / understand to be the purpose of the law of delict.

(25)

QUESTION 3

Write short notes on the following

- a) Foreseeability (5)
- b) Superior orders (5)
- c) Capacity (5)
- d) Contributory Negligence (5)
- e) *volenti non fit injuria* (5)

#### QUESTION 4

Discuss the impact of the Constitution of The Kingdom Of Swaziland No.1 of 2005 on the law of Delict.

(25)

#### QUESTION 5

Since the purpose of the law of Delict is to compensate a person, in appropriate circumstances for loss suffered. A pre requisite for liability is that the plaintiff must have suffered harm. Not all harm is actionable, however some form of harm are not recognized in law for purposes of compensation. To found a claim in delict, a plaintiff must have suffered patrimonial or pecuniary loss or an injury to an interest of personality or pain and suffering.

Discuss fully what you understand the purpose of the law of delict to be in light of the above statement. Use decided cases to illustrate your answer.

(25)

#### QUESTION 6

Damages will not be recoverable if the damage, their extent or nature were not foreseeable or were too remote. To sustain a cause of action it is necessary that the defendant must have caused the harm. Discuss fully what this element entails. Illustrate your answer by reference to decided cases.

#### QUESTION 7

The blameworthiness of the defendant's conduct depends on an evaluation of subjective factors involved in the case. The relevant subjective factors are the defendant's state of mind and the degree of care exercised at the time of the wrongful conduct.

Discuss fully what the requirements of this element are for purposes of establishing delictual liability.

(25)