

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION PAPER, MAY 2010**

**COURSE NAME : THE LAW OF DELICT**

**COURSE CODE : L306**

**TIME ALLOWED : THREE (3) HOURS**

**INSTRUCTIONS :**

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

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

### **QUESTION 1**

Jerry a senior pastor of the Temple of Jesus Christ Church has recently been the subject of serious scandal within the church and the popular press. He is living a lavish life style having recently bought himself an exquisite mansion, brand new BMW X5, a brand new Jeep Cheeroke and is alleged to be having affairs with some young female members of the congregation. One of these young congregants, a married woman, on being questioned by one journalist declared her undying love for the pastor, saying that she has even left her husband for the pastor and that not even the pastor's wife can separate them. On several occasions the pastor has been seen driving her around the city.

On account of his activities, Jerry, was disfellowshipped by a judicial committee comprising all the elders of his congregation. During the proceedings Jerry was preset at all times. The committee made the following findings:-

1. that Jerry had on several occasions committed acts of infidelity;
2. that on several occasions he had committed acts of fraud, lies, theft and gross mismanagement of church funds;
3. that he is guilty of rebelliousness in that on several occasions church elders had talked to him with the intended aim to have him change his ways but to no avail;
4. that he had brought the church into disrepute.

Jerry wants to sue the judicial committee on the ground that in their report they have made defamatory allegations against him. The Committee seeks your advice. Advise the Committee and in so doing make reference to case law authorities (25 marks)

### **QUESTION 2**

Bheki while driving down Malangwane highway caused an accident by driving into Simo's car from behind. His defence is that he was disturbed by a bee which got in through one of the open windows which caused him to panic resulting in the accident.

Simo is desirous of suing Bheki for the damage to his car. Advise Simo making reference to decided cases. (25 marks)

### **QUESTION 3**

Bhembe has a cow which, to his knowledge is prone to stray. One day it escapes through a gap in the fence in a field in which Bhembe is keeping it and it strays onto the highway. There it is frightened by a passing car, and knocks Zandile off her bicycle, whereby Zandile suffers severe injuries to her head. Whilst Zandile is still nursing her head and inspecting the damage to her bicycle, Marcia's dog leaps onto her and bites her on the thigh. Zandile is shocked and has to receive injections to counter the possible reactions arising from the bite. Zandile is allergic to the injection and suffers a stroke as a result.

Zandile seeks your advice as to her possible cause of action. (25 marks)

#### **QUESTION 4**

Siphosihle whilst walking along a pavement near Mahhala shopping complex tripped over a concrete slab covering a stormwater drain which was projecting about two inches above the level of the surface. She fell and sustained injuries to her left arm and to her knee.

The concrete slab when properly in position should lie in line with the surface of the pavement and not project above the level of the pavement.

Siphosihle, wishes to sue the Matsapha Town Council which constructed the pavement, because she feels that the pavement had been negligently constructed, or in the alternative, because the Matsapha Town Council failed to maintain the pavement, which had been put into use by it, in a usable and safe condition. (25 marks)

#### **QUESTION 5**

Mrs Makhanya tripped on vegetable matter which was left lying on the shop floor at Buy and Save Supermarket. She suffered a broken arm and a broken leg. This results in her being hospitalised for four months. She is desirous of suing Buy and Save supermarket for:-

1. negligence;
2. loss of earnings whilst she was in hospital;
3. medical expenses;
4. pain and suffering.

Advise her.

(25 marks)