

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, JULY 2010**

**TITLE OF PAPER:** TRIAL PRACTICE

**COURSE CODE:** L403

**TIME ALLOWED:** 3 HOURS

**INSTRUCTIONS:**

- (1) ANSWER ALL QUESTIONS.
- (3) MARKS FOR QUESTIONS OR PARTS OF A QUESTION ARE SHOWN IN BRACKETS

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

### **QUESTION 1**

Mangaliso Mathunjwa, a taxi man, has been arrested by the Swaziland Royal Police and charged with armed robbery. He instructs you that he was hired by three men in Manzini to ferry them to Luve. He tells you that these men had been his customers for many years and have occasionally engaged his services when in town. He instructs you further that on this particular day (20<sup>th</sup> day February, 2010), as usual, they asked him to take them to Luve and they told him that they would not be long there as they were picking up something and would come back with him. Upon arrival at the Luve shopping Complex they instructed him to park by one of the shops. Two of them got out and the other remained with him in the car. When the two took longer to return, he informed the one with him in the car that he now was going back as he had other appointments in town. At that point, he instructs you that the guy pointed a gun to his head and told him to shut his big mouth. Suddenly, the other two guys came running to the car carrying white plastic bags and told him to drive off immediately, which he did under obvious duress. Now he has been arrested because members of the public identified his car by the registration, called the police and they were all arrested before they could reach the Mafutseni Junction.

Draft the Affidavit accompanying his bail application.

[50 marks]

### **QUESTION 2**

Mchalageni Mamba is an old man of Ngculwini in the Manzini Region. He instructs you that on or about the 10<sup>th</sup> of March 2010, his two daughters, namely Sitani and Sitakele in the Company of six (6) men who were all unknown to him but armed with traditional weapons and bush knives, came to his homestead in Ngculwini and demanded that he flatly refused to heed to their demands, but nevertheless they proceeded to the cattle byre and opened the gateway. At that time he instructs you that a scuffle ensued

between the group and himself, but they overpowered him and drove off with the best ten of his livestock and to date, the said livestock still remains with them. He instructs you also that he has just recently learned from a reliable source that the livestock is presently kept at KaNdzangu area at a homestead known to belong to one Makhundu Sithole.

(a) What proceedings must be instituted to recover the livestock of your client?

[5 marks]

(b) Using the given factual matrix and improvising where necessary, draft an affidavit to accompany the prayers to be sought in court in relation to this matter.

[20 marks]

TOTAL: [25 marks]

### **QUESTION 3**

Discuss the different procedures that a Deputy Sheriff must follow from the point you instruct him to go and execute a Warrant of Execution against a Defendant. Reference to the relevant Court Rules will attract marks.

[25 marks]