

UNIVERSITY OF SWAZILAND

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INSTITUTE OF DISTANCE EDUCATION

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2012

TITLE OF PAPER : INTRODUCTION TO LABOUR LAW

COURSE CODE : DL 034

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- (1) ANSWER FOUR QUESTIONS.**
- (2) QUESTION ONE (1) IS COMPULSORY.**

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GRANTED BY THE INVIGILATOR**

QUESTION 1 – COMPULSORY

Nandi Khumalo is an employee of ABC (Pty) Ltd. Her immediate supervisor, Julius Macaleni has a reputation of being a “bad boy”. It’s an open secret at ABC (Pty) Ltd that Julius is fond of touching female employees inappropriately under the guise that he is just being friendly. Nandi has just joined ABC (Pty) Ltd as a Secretary. Some two months ago Julius touched Nandi’s breasts and forcefully kissed her without her consent. Nandi was shocked. She immediately reported this behaviour to the Managing Director. The Managing Director did not do anything regarding this incident. Julius did it again one month later and again she duly reported it to the Managing Director. Nothing was done to Julius. When Julius forcefully kissed Nandi again about a week ago, she resigned without giving notice.

With the aid of the relevant legislation and decided cases, discuss the remedy which Nandi may invoke against ABC (Pty) Ltd. Indicate the prayers that she may take at CMAC or at the Industrial Court.

(25 Marks)

QUESTION 2

Discuss the five common law duties of an **employee**.

(25 Marks)

QUESTION 3

Floyd Madzinane was employed by XYZ (Pty) Ltd as a Driver. He was paid a monthly salary of E2, 000.00. He worked 20 days a month and had worked for ABC for 21 years. Floyd was dismissed for misconduct.

Calculate the following claims, clearly showing the **formulae** and the **relevant section** in law governing the payment/ calculation:

- (a) Severance allowance; (5 Marks)
- (b) Additional notice pay; (5 Marks)
- (c) Maximum compensation for unfair dismissal? (5 Marks)
- (d) Compensation for automatically unfair dismissal? (5 Marks)
- (e) Notice Pay. (5 Marks)

Total [25 Marks]

QUESTION 4

Write short notes on the following three remedies for unlawful dismissal:

- (a) Reinstatement; (10 Marks)
- (b) Re-engagement; (5 Marks)
- (c) Compensation. (10 Marks)

Total [25 Marks]

QUESTION 5

Discuss the relevant provisions for the recognition of trade unions in Swaziland.

(25 Marks)

QUESTION 6

"The President of the Industrial Court of shall have the power upon receipt of an application, to decide whether such application should be heard by the Court or Arbitrator appointed by the Commission..." – per section 85 (2) (a) Industrial Relations Act No.1/2000 (as amended).

Discuss the above statement, making reference to decided cases.

[25 Marks]

QUESTION 7

CMAC (Conciliation Mediation and Arbitration Commission) has as one of its mandates the arbitration of disputes that are reported to it. Discuss the concept and process of **Arbitration** by CMAC.

(25 Marks)