

**UNIVERSITY OF SWAZILAND
DEPARTMENT OF LAW**

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SUPPLEMENTARY EXAMINATION, JULY 2012

TITLE OF PAPER : LAW OF EVIDENCE
COURSE CODE : DL039
TIME ALLOWED : THREE (3) HOURS
TOTAL MARKS : 100
INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS

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

Question 1

(a) What is evidence of character and what is it that an accused person may do in court during proceedings which allows the State to give evidence of his or her bad character?

(20 marks)

(b) Discuss evidence of bad character in civil proceedings.

(5 marks)

(Total marks = 25)

Question 2

(a) What was the effect of the *General Law and Administration Proclamation* 4 of 1907 in relation to our law of evidence?

(5 marks)

(b) What is forensic evidence?

(8 marks)

(c) Your client is being sued for damages on the basis that he defamed the plaintiff. He comes to you to instruct you on the matter. He informs you that he intends making formal admissions in respect of this matter. He requests advice on formal admissions. Advise him accordingly in respect of his matter.

(12 marks)

(Total marks = 25)

Question 3

(a) Discuss the rule in *Hollington v F Hewthorn & Co Ltd* [1943] 2 All ER 35.

(13 marks)

(b) Generally, persons who are not experts are not allowed to present evidence of their opinion. Discuss the exceptions to this general rule.

(12 marks)

(Total marks = 25)

Question 4

Write notes on the following:

- (a) Incrimination of co-accused. (5 marks)
- (b) Real evidence. (5 marks)
- (c) *Raphael Solwako Mkhonta v R* 1979-81 SLR 47 (HC). (5 marks)
- (d) *Boardman v DPP* [1974] 3 All ER 887. (10 marks)
- (Total marks = 25)

Question 5

- (a) What are notorious facts? (12 marks)
- (b) What is a previous consistent statement? (4 marks)
- (c) How was the similar-fact rule formulated in *Makin v Attorney-General for New South Wales* [1894] AC 57 (PC)? (9 marks)