

**UNIVERSITY OF SWAZILAND
DEPARTMENT OF LAW**

MAIN EXAMINATION PAPER, DECEMBER 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

In a criminal trial, S has testified for the prosecution as an eye-witness to a murder that was alleged to have been committed on 10 July 2012. He has given the court gruesome details of how the deceased was killed. He further has testified about how he came to be at the place where the murder was committed and how he escaped from the scene of crime. The defence is given an opportunity to cross examine the witness. The defence suggests to the witness that what he has told the court is a recent fabrication and that the evidence is irrelevant to the proceedings. You appear for the prosecution.

(a) The judge has called upon you to address the court on what the defence is saying. How would you deal with the issues that the testimony is said to be a recent fabrication and is irrelevant? (10 marks)

The defence further informs the court that they would like to make formal admissions and also present evidence of the good character of the accused.

(b) The judge further calls upon you to address the court on whether or not the evidence of good character of the accused and formal admissions would be admissible.

(15 marks)

(Total marks = 25)

Question 2

(a) Discuss the term "judicial notice"?

(20 marks)

(b) What is "real evidence"?

(5 marks)

(Total marks = 25)

Question 3

Under what circumstances may a person who is being prosecuted for a crime be asked about his or her character? (25 marks)

Question 4

Discuss whether or not similar-fact evidence has been admitted by the courts in relation to the following:

- (a) Identity. (10marks)**
 - (b) Acts of preparation. (5 marks)**
 - (c) Innocent association. (5 marks)**
 - (d) Knowledge. (5 marks)**
- (Total marks = 25)**

Question 5

- (a) What is an expert, and how qualified should a person be to be regarded as an expert by a court? (10 marks)**
 - (b) What is the scope of the evidence of an expert? (5 marks)**
 - (c) Discuss the instances in which persons not regarded as experts are allowed to give evidence of their opinion. (10 marks)**
- (Total marks = 25)**

Question 6

(a) What is "forensic evidence"?

(10 marks)

(b) Discuss the exception to previous consistent statements which applies to sexual offences only.

(15 marks)

(Total marks = 25)