

**UNIVERSITY OF SWAZILAND
DEPARTMENT OF LAW**

SUPPLEMENTARY EXAMINATION, JULY 2013

TITLE OF PAPER : LAW OF EVIDENCE II
COURSE CODE : DL040
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) A court having heard the evidence of witnesses may declare certain evidence to be false. What is the effect of such a declaration? (10 marks)

(b) Is a witness allowed to refer to his or her statement in evidence in chief?

(15 marks)

(Total marks = 25)

Question 2

(a) What is cross examination?

(6 marks)

(b) What burden must be discharged to prevent a discharge of the accused person at the close of the case for the prosecution? (8 marks)

(c) X is appearing before the Mbabane Magistrate's Court on a charge of theft of a gold ring valued at E8000.00. The magistrate sitting is an ordinary magistrate. The accused person pleads guilty to the charge and the prosecutor accepts the plea and closes his case.

Should the magistrate convict?

(6 marks)

(d) Is there a privilege applicable to statements of witnesses?

(5 marks)

(Total marks = 25)

Question 3

(a) What burden must be discharged to prevent absolution from the instance at the close of the plaintiff's case? (10 marks)

(b) How is an informal admission admissible and how does a court determine whether or not it is admissible? (15 marks)

(Total marks = 25)

Question 4

Discuss.

(a) Declarations by testators as to contents of their wills. (5 marks)

(b) Dying declarations. (20 marks)

(Total marks = 25)

Question 5

(a) Discuss the term 'estoppel by conduct'. (10 marks)

(b) What kind of evidence is circumstantial evidence? (10 marks)

(c) Do courts accept evidence of voice identification? (5 marks)

(Total marks = 25)