

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW

EXAMINATION PAPER DECEMBER 2012
(MAIN)

TITLE OF PAPER : **ROMAN LAW**

COURSE CODE : **L102**

TIME ALLOWED : **3 HOURS**

MARKS ALLOCATED : **100 MARKS**

INSTRUCTIONS : **ANSWER QUESTION ONE WHICH IS COMPULSORY, AND ANY THREE (3) QUESTIONS OF YOUR CHOICE.**

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE PROCTOR.

[TURN OVER]

QUESTION 1

Sputnik, is a renowned afro-pop music artist, as well as being a top-drawer fashion model. For his silhouette, he has his long trusted barber, Sparks to thank. One day, while Sputnik was having his trade-mark Mohawk hairstyle trimmed, he notices Sparks sweep, pick up and put his hair follicles and other molecular remains into his (Spark's) waist-bag. Sputnik quizzes Sparks about this, and the latter responds by saying that "ah, my-chyna! Ya know that a man has to fortify some time." Sputnik laughs and cautions Sparks by saying that – "you live by the voodoo, you die by the voodoo!" (In all the 10 years of hair-cutting friendship previous to this incident, Sputnik had never cared about the disposal of his hair).

Sputnik immediately thereafter protested stating that he owned the hair and that he wanted it back. Sparks vehemently refused and dashed out of the shop to meet and sell it (for E5000) to another friend, Mfolozi, who had desperately wanted the hair in order to use it for lucky charms. In fact, Mfolozi had been advised by his diviner to take Sputnik's hair and weave it into his dreadlocks with a certain oil concoction for him to have the same fame and fortune as Sputnik. Additionally, this would also help heal his scalp cancer.

Drawing on relevant principles of the Roman law of things/property and classification therein, determine the prospects of a suit by Sputnik against Mfolozi for the latter's conduct.

25 MARKS

QUESTION 2

Critically discuss “the struggle between the orders” as well as how aspects of this struggle were resolved.

25 MARKS

QUESTION 3

- [a] Write a short composition on the characteristics of Justinian’s codified work. [15]
- [b] Name four functions of the *Veteres*. [4]
- [c] Distinguish between the two schools of thought that emerged during the Classical period. [6]

25 MARKS

QUESTION 4

- [a] Explain and give an example of each of the following:
- (i) *res mancipi*
 - [ii] *res alicuius*
 - [iii] fungible thing
 - [iv] incorporeal thing
 - [v] complex thing [5]
- [b] Compare and contrast the Roman secular and in *manus* marriages. [10]
- [c] Explain the Roman Law of neighbours, carefully highlighting five instances of restrictions with regard to property rights. [10]

25 MARKS

QUESTION 5

- [a] Write an account of the position of a *de jure* and *de facto* slave under Roman law. [15]
- [b] Distinguish between the various types of delivery [10]
- [c] Define and explain a Partnership. [5]

25 Marks