

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION, MAY 2013**

**TITLE OF PAPER : THE LAW OF DELICT**

**COURSE CODE : L 306**

**TIME ALLOWED : THREE (3) HOURS**

**INSTRUCTIONS : ANSWER ANY FOUR (4) QUESTIONS.**

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

### **QUESTION 1**

Dlamini a keen sportsman, was involved in a car accident caused by the negligent driving of Masuku. Dlamini sustained severe bodily injuries. He suffered brain damage, lost sight in one eye and fractured several bones. His brain injuries restricted his movement. For some time after the accident, he had been in a coma.

Discuss all the issues brought out by this factual matrix.

[25 marks]

### **QUESTION 2**

Shabangu is the Chief Executive Officer of the Matsapha Municipality. Jele is the executive mayor. Jele has far exceeded his monthly cell phone allowance of E300 by accumulating has accumulated an excess of E5 000, payment of which is long overdue. The Auditor-General has, in letters to Shabangu, questioned the overdue payment and is not satisfied with an agreement between Jele and the municipality to write off the debt. The Auditor-General called Jele to appear before the Public Accounts Committee to explain this debt. In the course of his explanation, Jele made a defamatory remark about Shabangu, for which Shabangu wishes to sue him for damages.

Will Shabangu succeed? Discuss.

[25 marks]

### **QUESTION 3**

Nelly, Thandi and Hlob'sile three HIV-Positive women were asked to participate in clinical trials for a combination of HIV drugs run by the University of Cape Town Medical Faculty. Along with other participants in the trials, the three women had raised concerns about illness and fatalities among those involved. They also raised these concerns within the support group for people living with HIV/AIDS that they had been attending. The priest who ran the support group approached Maseko the member of parliament for the women's home area. Maseko met the participants in the trials including the three women. The University commissioned an external enquiry into the conduct of the trials. The enquiry issued a report that exonerated the Medical Faculty and the doctor in charge of the trials of any misconduct. The report contained the three women's names and their HIV- positive status. This report was sent to a number of interested parties, including Maseko. Maseko circulated this report among his colleagues in parliament.

Nelly, Thandi and Hlob'sile are considering bringing on action for violation of their rights to privacy, dignity and psychological integrity resulting from publication of their names and HIV – positive status without their consent.

Advise them.

[25 marks]

#### **QUESTION 4**

Hlophe, a bus driver, was driving a passenger bus on a main road. In the course of the journey he encountered an abandoned vehicle on the road directly in his path and it was not possible to pass the stationary vehicle on the left. At about the point where the stationary vehicle was parked the road started to curve towards the right with the result that visibility beyond the vehicle was limited. Hlophe started to pass the stationary vehicle on its right, necessarily going over to the wrong side of the road to do so. Sithole's car approached from the opposite direction and a collision followed.

Sithole intends to sue Hlophe on the ground of negligence.

Advise him.

[25 marks]

#### **QUESTION 5**

Sifiso a meter reader in the employ of Swaziland Water Services entered the premises of Nomsimiso in spite of being aware of a sign warning people of the presence of a dog. Upon entry he was bitten by the dog.

He wants to claim for damages from Nomsimiso, will he succeed.

[25 marks]