

**UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION**

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DIPLOMA IN LAW

MAIN EXAMINATION PAPER, DECEMBER 2013

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

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GRANTED BY THE INVIGILATOR TO DO SO.**

Question 1

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A woman and a man are involved in a paternity dispute. The woman is suing the man for the maintenance of a four (4) year old boy. The man denies being the father of the child. The matter is before the High Court. On the first day of trial, the woman's attorney calls Dr. K as the first witness. Dr. K informs the court that he is a medical practitioner and a DNA expert. He does not testify in relation to his qualifications, if any, or for how long he has been in practice. He informs the court that after obtaining blood samples from the boy and the Respondent, he conducted an examination or analysis which requires a specialized skill, of the samples. He further informs the court that the results he obtained were that the Respondent is the father of the boy. However, Dr. K does not inform the court how such results were obtained. The Respondent is unrepresented, and does not cross-examine Dr K.

As the presiding Judge, make an assessment of the testimony of Dr. K.

(25 marks)

Question 2

(a) S is suing T for breach of contract. To prove the contents of the contract, what requirements should S comply with? (20 marks)

(b) Under what circumstances is a woman compellable to testify against her husband?

(5 marks)

(Total marks = 25)

Question 3

Discuss the “Best Evidence” rule.

(25 marks)

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Question 4

Write short notes on the following:

(a) The history of the Civil Evidence Act 1968.

(5 marks)

(b) Witnesses who refuse to testify.

(5 marks)

(c) The evidence of an accomplice witness.

(5 marks)

(d) Real evidence.

(5 marks)

(e) Formal admissions in criminal proceedings.

(5 marks)

(Total marks = 25)

Question 5

Discuss “Exceptions to the Similar-Fact” rule.

(25 marks)

Question 6

(a) How does the rule in *Hollington v Hewthorn* apply?

(15 marks)

(b) What is “prior identification” in relation to previous consistent statements?

(10 marks)

(Total marks = 25)