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**UNIVERSITY OF SWAZILAND
DEPARTMENT OF LAW
DIPLOMA IN LAW**

MAIN EXAMINATION PAPER, MAY 2014

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

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In a civil trial in which P is suing Q for defamation you appear for the Defendant. P takes to the stand and introduces himself and then starts reading from a statement that he made to his attorney. After P had just finished reading the first paragraph, the presiding judicial officer stops him from reading the statement any further. She calls on you to address the Court on whether or not she should continue hearing the evidence of P.

Address the court fully, clearly stating whether or not P should be allowed to continue reading from his statement. **(25 Marks)**

Question 2

Discuss professional privilege and the essential requirements of such privilege. **(25 Marks)**

Question 3

Write short notes on the following.

- (a) Presumptions of fact. **(5 Marks)**
- (b) Voice identification. **(5 Marks)**
- (c) Relaxation of the rule against hearsay. **(10 Marks)**
- (d) Declarations by testators as to contents of their wills. **(5 Marks)**

(Total Marks = 25)

Question 4

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A person is appearing before the Senior Magistrate in Mbabane on a charge of theft of a cellphone valued at E3000.00.

(a) If the person were to plead guilty to the charge should the Senior Magistrate convict him? (8 Marks)

(b) If the person was appearing before a Principal Magistrate and pleaded guilty to the charge would that be sufficient for a conviction to follow? (8 Marks)

(c) If the person pleaded not guilty to the charge and one (1) witness testified against him implicating him with the offence, would this be sufficient for a conviction to follow?

(9 Marks)

(Total Marks = 25)

Question 5

Which requirements should a statement meet for it to be regarded as a confession?

(25 marks)

Question 6

What burden should be discharged in the following circumstances?

(a) At the close of the prosecution's case. (10 Marks)

(b) To prevent absolution from an instance. (15 Marks)

(Total Marks = 25)