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

SUPPLEMENTARY EXAMINATION, JULY 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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The estate of S is being sued by P who alleges that he lent E50 000.00 to S. This money is alleged to have been lent to S in 2005. The reason P is suing the estate is that S disappeared without trace in 2006. Part of the evidence in possession of P's attorney is a statement made by S in which he stated that he got a E50 000.00 loan from P. The attorney representing the estate of S is opposing on the ground that P will have to prove that S is dead to succeed.

Does P have any prospects of success in this matter? (25 Marks)

Question 2

(a) Who must begin presenting evidence in civil trials? (15 marks)

(b) Discuss presumptions applicable to marriage. (10 marks)

(Total Marks = 25)

Question 3

What do you understand by the term 'marital privilege'? (25 Marks)

Question 4

Write short notes on the following:

(a) The incidence of the burden of proof. (5 marks)

(b) Statutory presumptions (5 marks)

(c) Admission by conduct.

(5 marks)

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(d) Evidence on affidavit.

(5 marks)

(e) Unfavourable and hostile witnesses.

(5 marks)

(Total Marks = 25)

Question 5

(a) How and under what circumstances should an identification parade be conducted?

(15 marks)

(b) Statements made by an accused person are admissible against that accused if certain requirements are met. Discuss the requirement of voluntariness. (10 marks)

(Total Marks = 25)