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UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER MAY 2014
(B.COMM IDE)

TITLE OF PAPER: LABOR LAW

COURSE CODE: L607

TIME ALLOWED: THREE HOURS

INSTRUCTIONS:

1. Answer one (1) Question from Section 1
2. Answer any three (3) Questions from Section 2

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

SECTION 1

Question 1

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Sive was employed by a company called Tru-stars. By the terms of the agreement, he was;

- a. Not required to work full time and could do other work
- b. Not under strict supervision by officials of the company although he worked in close collaboration
- c. Remunerated on completion of the job in pro ration till the end of the contract
- d. Was to complete the job in six months

What kind of contract is this? And what are its advantages?

If Sive were to get injured during his job performance, would he be entitled to claim under the Workman's Compensation Act of 1983? If so why? Discuss. Support your answer with examples or cases. (25)

Question 2

In misconduct cases, the employer has the burden of proof. According to section 42(2) of the Employment Act 5/1980, how is this possible? With reference to the case of *Sibongile Fruhwirth v Conco*, and *Jabulane Dlamini v Swazox*, was this condition met by the employers? Discuss these cases. (25)

Question 3

The University of Wits advertised a Senior Librarian position in the SABINET List Serve. Jenneth Dube was one of those who sent an application for the position. She was duly invited for an interview in which she impressed the management. She was offered a contract to read and sign if satisfied with the conditions of the same. She signed the contract accepting the employment with the University. As part of the University's policy, Jenneth had to undergo a medical examination before assuming her employment. The medical examination found that she was HIV positive and pregnant.

A report was given to the University which then called Jenneth to inform her that pursuant to the doctor's report, the company was unable to let her assume work under the contract and was now cancelling the contract.

She intends to institute a case against the company for unfair dismissal. How would you advise her on the chances of success in the case? (25)

SECTION 2

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Question 4

Critically discuss the ILO Conventions and Recommendations and the rules that come with it to the labour law of Swaziland. What are the effects of these on the development of labour law in Swaziland? (25)

Question 5

Write short notes on the following;

- a) Reengagement
- b) Compensation
- c) Fair disciplinary proceedings
- d) Agency Shop agreement
- e) Protected strikes (25)

Question 6

- a) Discuss the role of trade unions in industrial relations and how these can be recognized. Support your answer with the relevant legislation. (15)
- b) Tuntex Firm employees intend to engage in an illegal strike. What remedy is open to the management of the firm in such instances? Support with relevant legislation. (10)

Question 7

- a) Outline the International standards in work place discipline that were used by the court in deciding the case of *SAPWU v Usutu Pulp 423/2006*. (5)
- b) List and critically discuss the duties of an employer and the remedies available where the employee fails or is unable to perform his duties. (15)
- c) Define the contract of Employment and its essential elements that distinguish it from the contract of work. Support your answer with examples (5)