

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

SUPPLEMENTARY EXAMINATION, JULY 2017

TITLE OF PAPER	:	LAW OF EVIDENCE
COURSE CODE	:	DL039
TIME ALLOWED	:	THREE (3) HOURS
TOTAL MARKS	:	100
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

You appear for the prosecution in a matter in which a witness testifies about how she saw the accused person commit the offence he is charged with. She describes the accused fully and goes further to point him out before court. The witness does not say whether she had seen the accused prior to testifying in court, but after the commission of the offence. The attorney for the accused objects to the testimony of the witness on the basis that it is a recent fabrication and that the witness has not given evidence whether or not she had seen the accused before testifying in court.

(a) What can you do regarding the allegation that the witness has fabricated her testimony? (10 marks)

(b) If the witness had in fact identified the accused before would such evidence be important or not and would it be possible at this stage to present such evidence?

(15 marks)

(Total marks = 25)

Question 2

Your client is being sued by a person who believes that he negligently caused an accident which resulted in him sustaining serious injuries thereby incurring huge medical costs. Your client states that the plaintiff is exaggerating the injuries sustained. How would proceed with this matter?

(25 marks)

Question 3

A person relying on a document as evidence must comply with which rules before such may be admitted as evidence before court? (25 marks)

Question 4

Ordinary witnesses go to court to testify about facts and not to give their opinion in relation to events they are testifying about. However, there are instances in which an ordinary witness may be allowed to give his or her opinion. Discuss these instances.

(25 marks)

Question 5

(a) Is an accused person competent and compellable to testify against a co-accused?

(10 marks)

(b) Is a spouse competent and compellable to testify against the other spouse?

(8 marks)

(c) Is a drunk person competent and compellable to testify?

(7 marks)

(Total marks = 25)