

**UNIVERSITY OF SWAZILAND
DEPARTMENT OF LAW**

SUPPLEMENTARY EXAMINATION, JULY 2017

TITLE OF PAPER : LAW OF EVIDENCE
COURSE CODE : L302
TIME ALLOWED : THREE (3) HOURS
TOTAL MARKS : 100
INSTRUCTIONS : ANSWER ANY FOUR (4) QUESTIONS

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GRANTED BY THE INVIGILATOR TO DO SO.**

Question 1

During a criminal trial in which the accused is charged with theft, a prosecution witness tells the court that the accused person is troublesome in the area where they reside because he is in the habit of breaking into people's homes when there is no one around. The defence attorney does not object to this testimony. During the defence stage, the accused person goes to the witness box and after having taken an oath gives evidence of his good character.

(a) Is the evidence by the prosecution witness admissible? (15 marks)

(b) Is the evidence by the accused person admissible? (10 marks)

(Total marks = 25)

Question 2

A sues B on the basis that B is in breach of a written contract between the two. B denies being in breach and alleges that, in fact, there is no contract between the two of them. He further states that if A seeks any redress he will require that A should comply with the best evidence rule.

What should A do to show that there is a contract between the two and B is breach of the contract? (25 marks)

Question 3

In a criminal trial before the High Court the prosecution presents a person who they say will give evidence of an informal admission made by the accused person. The accused person denies ever making an informal admission.

How should the court proceed with this matter? (25 marks)

Question 4

During the winding up of an estate of a deceased person, relatives of the deceased are approached by a representative of a bank who gives them a written acknowledgement of indebtedness of the deceased to the bank in the amount of E100 000.00. It has been signed by the deceased. The relatives tell the bank representative that this document has no legal effect since the person who signed it has died.

Discuss the legal position.

(25 marks)

Question 5

During a road rage incident a man assaults another for having driven through a red traffic light and almost causing a horrific accident. The man assaulting the other is accompanied by his wife and their 10 year old son. The one assaulted is traveling alone and it turns out that he was under the influence of alcohol. The assaulted man lays a charge and the offender is arrested for assault.

(a) Is the wife a competent and compellable witness to testify against the husband?

(7 marks)

(b) Is their son a competent witness?

(10 marks)

(c) Would evidence by the accused person that the complainant was drunk be admissible?

(8 marks)

(Total marks = 25)