

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

SUPPLEMENTARY EXAMINATION, JULY 2018

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

During a civil trial, the presiding Judge notices that the defendant's plea contains admissions of fact which are favourable to the plaintiff's case and brings this to the attention of the parties. The attorney for the defendant submits that that is an error and will in the course of the proceedings show that the court should not accept as proved those facts to which the admissions relate.

Discuss the legal position focusing on whether or not there are any admissions before court and the effect of their presence or absence. (25 marks)

Question 2

In a criminal trial, is the prosecution permitted to present evidence of the bad character of the accused person? (25 marks)

Question 3

Before the High Court is a criminal trial in which the accused person is charged with the attempted murder of the complainant. A doctor testifies to the extent in which the injuries sustained by the complainant were life threatening. He testifies to the effect that if it was not for medical intervention the complainant would have died.

During the submission stage, the attorney for the accused submits that the court should not regard the doctor as an expert witness and should therefore disregard his opinion. The attorney further submits that with regard to the doctor's report the prosecution ought to comply with the best evidence rule.

Make an assessment of the attorney's submissions stating whether or not these submissions are legally sound. (25 marks)

Question 4

Discuss the exception to previous consistent statements which applies to sexual cases only. (25 marks)

Question 5

(a) What was the effect of the *General Law and Administration Proclamation 4* of 1907? (15 marks)

(b) Can an accused person testify for the prosecution in a matter in which he is co-charged with others? (10 marks)

(Total marks = 25)