

UNIVERSITY OF ESWATINI
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2019

TITLE OF PAPER : **LAW OF DELICT**

COURSE CODE : **LAW 304**

TIME ALLOWED : **THREE (3) HOURS**

INSTRUCTIONS :

- 1. ANSWER ANY FOUR (4) QUESTIONS.**
- 2. MARKS ARE INDICATED AT THE END OF EACH QUESTION.**
- 3. CANDIDATES ARE THEREFORE ADVISED TO ALLOCATE THEIR TIME ACCORDINGLY.**

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QUESTION 1

Simelane, a private detective installed a bugging device in Maseko's apartment. He was instructed to do so by the estranged wife of Maseko. She suspected that her husband was having an affair and the purpose of the device was to listen to his private conversations.

Maseko wishes to sue Simelane on the ground that his actions amounted to a serious violation of his dignity.

Will he succeed? Make reference to decided cases.

[25 MARKS]

QUESTION 2

The Times of UNESWA published a letter to the editor that criticised the catering arrangement at the annual trade fair. Ceko was in charge of the catering arrangements. The criticism included that the caterer was incompetent, the food was disgraceful, because the eating areas were filthy, the table linen was greasy and dirty and that the floor was littered with refuse that had fallen or had been swept from the tables.

The Times of UNESWA pleads truth and for the public benefit.

Will it succeed?

[25 MARKS]

QUESTION 3

Matsebula was bitten by Gwebu's dogs which escaped from his premises causing her severe damages.

She has approached you for advice. Using decided cases will she succeed on claim based on the Actio de pauperic?

[25 MARKS]

QUESTION 4

Gama an employee of Phutfumani a delivery arm of Eswatini Posts and Telecommunication was employed as a driver whose duty was to deliver parcels all over the state of UNESWA. Last month after delivering parcels at Buhleni in Northern Hhohho where the annual Buganu/Marula festival was in full swing he decided to quench his thirst with the famous brew. On his way back to the depot, due to negligent driving, no doubt caused by his state of insobriety, knocks down a pedestrian, Ntombi, causing her severe injuries.

Is Post and Telecommunications vicariously liable for the injuries of Ntombi?

Illustrate your answer with decided cases.

[25 MARKS]

QUESTION 5

Hlophe a 63 year old man had been unlawfully arrested and imprisoned for a period of seven days. He was assaulted by one Fred an off duty police officer during that period.

He wishes to sue the Minister for Police for deprivation of his liberty and infringement of his right in dignity.

Will he succeed?

[25 MARKS]