

**UNIVERSITY OF ESWATINI**  
**FACULTY OF SOCIAL SCIENCES**  
**DEPARTMENT OF LAW**  
**LAW407 MAIN EXAM PAPER**

<b>Programme of Study</b>	<b>:</b>	<b>LLB IV</b>
<b>Title of Paper</b>	<b>:</b>	<b>Negotiable Instruments &amp; Banking Law</b>
<b>Course Code</b>	<b>:</b>	<b>LAW407</b>
<b>Time Allowed</b>	<b>:</b>	<b>3 Hours</b>
<b>Total Marks</b>	<b>:</b>	<b>100</b>

**INSTRUCTIONS:**

1. Answer ALL questions.
2. Begin each question on a new page.
3. Make sure that your expressions are clear and that you refer to relevant case law.

**THIS PAPER MAY NOT BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY INVIGILATOR(S).**

**QUESTION 1**

With the aid of the case of *ESOR Limited v First National Bank of Swaziland* 2008 SZHC 3, analyse the law governing the liability of a banker for wrongful payment. [25 Marks]

**QUESTION 2**

In the case of *Woods v Martin's Bank Ltd.* [1958] 3 ALLER 66, Salmond J observed that the question "what is a bank?" may be answered differently from time to time and place to place. Do you agree with this sentiment? Critically discuss your position referring to statutory law and relevant case law. [25 Marks]

**QUESTION 3**

With reference to the case of *Standard Bank v Sham Magazine Centre* 1979 (1) SA 484, discuss the various ways in which a drawer may render a bill completely and absolutely non-transferrable. [25 Marks]

**QUESTION 4**

Daniel, who has never had any dealings with Phil, drew and signed a cheque in blank and handed it to his secretary Eric so that Eric might make certain payments on Daniel's behalf. Eric fraudulently completed and delivered the cheque to Phil. The cheque was made payable to Phil or bearer. Upon presentation at the drawee-bank, the cheque got dishonoured. Phil then sued Daniel, alleging that he (Phil) was a holder in due course. Daniel alleged that Phil was not a holder in due course because the cheque had been signed in blank and was not completed in accordance with the authority which Daniel had given Eric. Was Phil a holder in due course? Could Phil enforce the payment of the cheque against Daniel? Discuss fully referring to case law. [25 Marks]

**END OF EXAM**