



**UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
DIPLOMA IN LAW
FINAL EXAMINATION PAPER APRIL 2021**

TITLE OF PAPER : LAW OF DELICT
COURSE CODE : IDE LAW 303
TIME ALLOWED : THREE (3) HOURS
INSTRUCTIONS : ANSWER ANY FOUR (4) QUESTIONS

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GIVEN
BY THE INVIGILATOR**

Question 1

- a) What does the concept of voluntary conduct mean? [10]
- b) With reference to examples distinguish between absolute compulsion and relative compulsion. [5]
- c) On whom does the burden of proof for automatism rest? [10]

Total marks: [25]

Question 2

X, brandishing a hunting knife, tells Y that if Y does not help him kill Z, X will kill Y. Y hits X over the head with a blunt object. X suffers a severe concussion. What ground(s) of justification may X raise if X institutes a delictual action against Y? Substantiate your answer with case law.

Total marks: [25]

Question 3

- a) "The negligence of an act must always be judged in light of the circumstances of a particular case".

Discuss this statement and name the factors that play a role when evaluating the circumstances of the case. [20]

- b) On whom does the burden of proving contributory negligence rest? Discuss briefly. [5]

Total marks: [25]

Question 4

What is the difference between the question of fault and the question of imputability. Discuss with reference to case law.

Total marks [25]

Question 5

- a) What is meant by the doctrine of subjective rights? [5]
- b) Define provocation. [5]
- c) Using examples explain the following concepts:
 - i. Consent to injury [5]
 - ii. Unforeseen plaintiff [5]
 - iii. Voluntary assumption of risk [5]

Total marks: [25]

Question 6

- a) B is driving at 60km/h during a downpour one night, when he crashes into A's vehicle. The speed limit is at 60km/h. A alleges that the fact that B was driving at 60km/h amounts to negligence. B's defence is that he did not exceed the speed limit and was therefore not negligent. Will B succeed in his defence? [10]
- b) Wrongfulness occurs only where there was a legal duty on the Defendant to act positively to prevent the harm and if he failed to comply with the duty. Discuss. [15]

Total marks: [25]