

**UNIVERSITY OF SWAZILAND
FACULTY OF COMMERCE
DEPARTMENT OF ACCOUNTING**

**EXAMINATION PAPER, 2014
(SUPPLEMENTARY)**

TITLE OF PAPER	:	COMMERCIAL LAW
COURSE CODE	:	AC 102
DURATION	:	3 HOURS
MARKS ALLOCATED	:	100 MARKS
INSTRUCTIONS	:	ANSWER ANY FOUR (4) QUESTIONS OF YOUR CHOICE.

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE PROCTOR.**

QUESTION 1

Spencer Tailors, a reputable clothing store in Manzini, is considering suing Somnotfo, a minor to whom Spencer had supplied fine silk clothes, including five Levi jeans and four Polo shirts totaling E12,000.00. Somnotfo is a Second year Commerce undergraduate student at UNISWA and used part of his E25,000.00 allowance to purchase the items. Reputed on campus to have a flair for the finer things in life, the clothes were suitable according to his assumed station in life. But for a university student, his existing wardrobe could easily clothe a bus load of people.

With these facts in mind, critically determine the prospects of suit success by Spencer Tailors. **[25 MARKS]**

QUESTION 2

Write short notes on the following:

- | | |
|---------------------------|---|
| a) <i>Mora Creditoris</i> | 5 |
| b) Duress | 5 |
| c) Restraint of Trade | 5 |
| d) Acceptance | 5 |
| e) Mistake | 5 |

[25 MARKS]

QUESTION 3

Referring to case law, critically determine the liability of the appropriate party in the following cases;

- i) The company, Caltex Filling Station's experienced representative told Madoda that Caltex Filling Station estimated that the

throughput of petrol on a certain site in Ka-Khoza would reach 200,000 litres of fuel in the third year of operation and so persuaded Madoda to enter into a tenancy agreement (lease of land using Caltex's Machinery) in April 2005 for three years. Madoda did all that could be expected of him as tenant but the site was not good enough to achieve a throughput of more than 60,000-70,000 litres. Madoda lost money and was unable to pay for Caltex for the use of its machinery. Caltex sued Madoda claiming possession of the site and E2 million in damages.

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- ii)** Ngoma had threatened not to proceed with a contract for the sale of shares, unless Mageza agreed to a renegotiation of certain lesser terms in the contract. Fearful and in a hurry to complete the main agreement since it was very profitable, but knowing that he could sue Ngoma later on these terms and also wishing to avoid litigation, Mageza agreed and signed. When Ngoma later tried to enforce the lesser terms of the contract, Mageza went to court claiming that the contract was voidable.

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[25 MARKS]

QUESTION 4

Critically discuss the law of Damages under Roman-Dutch law.

[25 MARKS]

QUESTION 5

Critically discuss the impossibility of performance under our law.

[25 MARKS]