



**UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
DIPLOMA IN LAW
FINAL EXAMINATION PAPER AUGUST 2020**

TITLE OF PAPER : LAW OF EVIDENCE II
COURSE CODE : IDE - DL040
TIME ALLOWED : THREE (3) HOURS
TOTAL MARKS : 100
INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS

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Question 1

A person testifies in court, that on a particular day the accused person came to him and told him that he had taken part in a robbery in which millions of Emalangeneni were stolen. The story of this brazen robbery had, in fact, been published in one of the widely read local newspapers. Under cross-examination, the accused person strongly denies that he ever said anything of that nature to the witness.

As the presiding judicial officer what would you do to ensure that such evidence is treated in the proper manner for its exclusion or admission and would such be admissible? **(25 marks)**

Question 2

Before the High Court is a trial in which the plaintiff is suing for breach of contract. It turns out that the plaintiff seeks to enforce a deed of sale which she had entered into with the defendant. The defendant is refusing to deliver the item she had agreed to sell to the plaintiff on the basis that she has found a better deal from another potential buyer.

You appear for the plaintiff in this matter, what would your submissions be to ensure that the deed is enforced? **(25 marks)**

Question 3

A husband is on trial for assaulting his wife. When the wife takes to the stand to testify, the attorney for the accused person objects to the wife testifying against her husband on the basis of marital privilege.

You appear for the prosecution in this matter and you have been called upon to make submissions in response to the objections by the defence.

(25 marks)

Question 4

You have been instructed by the Director of Public Prosecutions to handle a trial at the High Court. When you read the docket you realise that one of your key witnesses is a resident of Dubai in the United Arab Emirates. You call this witness and he indicates that he is willing to testify, but due to work commitments he is unable to travel all the way to Eswatini. What would you do to ensure that the evidence of this witness is placed before court?

(25 marks)

Question 5

In a civil trial, a witness goes to the witness box states his names and starts testifying for the plaintiff by reading from his laptop, what he says is his statement. You appear for the defendant in this matter. On realising this, the Judge stops the witness and calls on you to address him on whether this witness should be allowed to testify in this manner.

What would your submissions be?

(25 marks)

Question 6

During a murder trial at the High Court, a witness testifies that it was a night when he heard the sound of a person crying and telling the accused person to stop assaulting him because he could die. He could not see what was happening because he was in his house and the crying sound accompanied by the beating sound came from the neighbor's

house, who is the accused person. In the morning, the deceased was found dead with marks clearly showing that he had been assaulted with a blunt object. The attorney for the accused person objects to the evidence of this witness on the basis that his evidence is hearsay.

You appear for the prosecution and you have been called upon to respond to the objection. How would you respond? **(25 marks)**