

**UNIVERSITY OF FORT HARE
FACULTY OF LAW
(East London Campus)**

**LAW OF EVIDENCE
LCE 213E**

**JUNE/JULY EXAMINATION 2023
SUPPLEMENTARY EXAMINATION PAPER**

.....

Time: 3 hours
Subject: LAW OF EVIDENCE (LCE 213E)
Marks: 100

This paper consists of TWO pages including the cover page

INTERNAL EXAMINER(S)
Mr K Tshiki

INTERNAL EXAMINER(S)
Adv S Seti

INSTRUCTIONS

1. Answer ALL questions.
2. Do not separate subsections of questions.
3. Pay careful attention to marks allocated.
4. WRITE LEGIBLY.

QUESTION 1

You are representing X before the appeal court against a conviction for house breaking. The Magistrate's Court accepted the evidence of a police dog handler that his trained dog had sniffed at a place where the accused was sleeping with some other persons. The dog sniffed at the accused, then at the other persons, and then went back to the accused and barked.

What will you, as X's counsel, argue in support of your appeal against conviction? Explain with reference to authority?

[20 Marks]

QUESTION 2

2.1 Discuss the **Markini Judgement** and the admissibility of similar facts evidence. (20 marks)

2.2 Discuss the following concepts relating to the law of evidence:

2.2.1 Admissibility and Relevance

2.2.2 Proof and Evidence

2.2.3 Substantive Law and Adjectival Law

(10 marks)

[30 Marks]

QUESTION 3

The general rule is that previous consistent statements are inadmissible because they are irrelevant. However, there are certain exceptional situations in which evidence of previous consistent statements may be admitted.

Discuss critically with reference to case law these exceptions as to the admissibility of previous consistent statements?

[25 marks]

QUESTION 4

3.1 Distinguish between relevancy and admissibility of evidence with reference to the following case law: *S v Shabalala* 1986 (4) SA 743 (A); and, *S v Mavuso* 1987 (3) SA 499 (A). (10 Marks)

3.2 Distinguish between *facta probanda* and *facta probatio*? (15 Marks)

[25 Marks]

[TOTAL 100 MARKS]

-END-