

Thursday 6 June 2013 – Morning

A2 GCE LAW

G157/01/1 Law of Torts

INSERT – QUESTION PAPER

Duration: 2 hours



INSTRUCTIONS TO CANDIDATES

- Write your name, centre number and candidate number in the boxes on the Answer Booklet. Please write clearly and in capital letters.
- Use black ink. HB pencil may be used for graphs and diagrams only.
- Read each question carefully. Make sure you know what you have to do before starting your answer.
- Answer **three** questions; **one** from Section A, **one** from Section B and **one** from Section C.
- When answering Section A and Section B questions you are required to demonstrate some synoptic thinking. In Section A this is achieved by relevant reference to precedent and/or statutory materials including the development of law and comments on justice or morality, where appropriate. In Section B this is achieved by relevant use of precedent and/or statutory materials in the application of legal reasoning to given factual situations including comment on the justice or morality of the outcome, where appropriate. You are not required to demonstrate synoptic thinking in Section C.

INFORMATION FOR CANDIDATES

- The number of marks is given in brackets [] at the end of each question or part question.
- The total number of marks for this paper is **120**.
- Candidates are reminded of the need to write legibly and in continuous prose, where appropriate. In answering **Section A** and **Section B** questions you will be assessed on the quality of your written communication (QWC) including your use of appropriate legal terminology. These questions are marked with an asterisk (*).
- This document consists of **4** pages. Any blank pages are indicated.

INSTRUCTION TO EXAMS OFFICER/INVIGILATOR

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Answer **three** questions

Answer **one** from Section A, **one** from Section B and **one** from Section C

You are advised to spend 50 minutes on Section A, 50 minutes on Section B and 20 minutes on Section C.

SECTION A

Answer only **one** question from this section.

- 1*** 'The development of the concept of the duty of care in the tort of negligence has confused as much as it has clarified the law.'

Discuss the extent to which this statement is accurate. Do **not** discuss special duty situations in detail. **[50]**

Start your answer on **page 2** of the Answer Booklet.

- 2*** 'The tort of trespass to the person achieves all of its aims of protection, deterrence and provision of compensation.'

Discuss the extent to which this statement is accurate. **[50]**

Start your answer on **page 2** of the Answer Booklet.

- 3*** Discuss whether the **Animals Act 1971** is so complex that it is not as effective as Parliament intended it to be. **[50]**

Start your answer on **page 2** of the Answer Booklet.

SECTION B

Answer only **one** question from this section.

- 4* Craig has taken his girlfriend, Jasmine, to the Astoria Cinema. The film is frightening and Jasmine goes outside. Whilst Craig is watching the film, the screen explodes and a fire starts. Craig runs to the nearest fire exit but it is locked and Craig collapses as he is overcome by smoke.

The fire service is called. One of the fire-fighters, Martin, goes into the cinema but cannot see clearly. Martin rescues Craig and carries him outside. Martin then realises he has just rescued his own son. Craig is badly burned and Jasmine becomes hysterical when she sees him. Craig dies in Martin's arms and his body is taken to the hospital. Martin calls Pat, Craig's mother. Pat goes straight to the hospital where she sees Craig's body immediately.

Jasmine and Pat are both suffering from post-traumatic stress disorder. Martin has been off work since the fire as he is completely devastated by the death of his son.

Advise Jasmine, Martin **and** Pat whether each of them will be able to bring successful claims for nervous shock (psychiatric damage) against the Astoria Cinema. [50]

Start your answer on **page 10** of the Answer Booklet.

- 5* Andrei is a member of Better Bodies Gym. He takes a shower in the gym's new changing room. Andrei's hand is burned by a loose wire when he goes to turn on the shower. He is the first person to use the shower since it was installed by Sparks Electrics.

Maxim is at the gym with his son Gleb, aged 9. Maxim and Gleb see what happens to Andrei. Gleb stays with Andrei whilst Maxim goes to look for help. Maxim goes through a door which says "Gym staff only". The room is dark as Sparks Electrics have not yet fitted new lights. Building equipment is on the floor and Maxim falls over it, breaking his ankle.

After a while, Gleb leaves Andrei and goes to look for his father. As he walks through the changing room, he slips over on the wet floor. Gleb breaks his expensive watch when he falls.

Advise whether Andrei, Maxim **and** Gleb are likely to be successful in any claims that they may make against Better Bodies Gym in occupiers' liability. [50]

Start your answer on **page 10** of the Answer Booklet.

- 6* On an industrial estate Phil makes beer which he stores in barrels. Next door to Phil, Quentin has a Koi carp business. He keeps the fish in a tank behind his shop. In the shop opposite Sophie runs a cupcake bakery.

One night, after Phil has gone home, there is a violent thunderstorm. Lightning goes through a window, which Phil has left open, and strikes a barrel of beer which explodes. The force explodes several other barrels and blows out a window in Sophie's shop. Rain ruins all the cupcakes Sophie has just made for a wedding.

The following day, Phil's young son squeezes through a hole in the fence which surrounds the fish tank. Quentin has failed to repair the fence. He tips some of his father's beer into the tank killing several valuable fish. A week later, Quentin's cleaner forgets to turn off a tap in his shop. The resulting flood ruins gallons of Phil's beer.

Discuss the liability of Phil **and** Quentin in the tort of *Rylands v Fletcher*. [50]

Start your answer on **page 10** of the Answer Booklet.

SECTION C

Answer only **one** question from this section.

- 7 Jason wants to buy an old school to convert into luxury flats. He pays a qualified architect, Kevin, to design the conversion and to get planning permission for it. When Kevin tells Jason he has the planning permission Jason buys the school.

Kevin recommends to Jason that he use Nigel, a builder, to do the work on the conversion. Nigel uses wood to repair the roof, but the wood that he uses is not strong enough and the roof is now unsafe. Jason advertises the flats for sale but the flats cannot be sold because Kevin applied for the wrong type of planning permission.

Evaluate the accuracy of **each** of the four statements A, B, C, and D individually, as they apply to the facts in the above scenario. [20]

Start your answer on **page 18** of the Answer Booklet.

Statement A: Jason cannot claim from Kevin as there is no special relationship.

Statement B: Kevin cannot be liable as the loss is purely economic.

Statement C: Nigel is **not** liable for the unsafe roof.

Statement D: Kevin can avoid liability for negligent misstatement by saying that he 'did not expect Jason to rely solely on his advice'.

- 8 Amir drives a van for Quickdrop Parcels. His route is long and he likes to smoke as he is driving although it is against company rules. Whilst waiting at traffic lights, Amir throws a lighted cigarette out of his van without looking. It hits Zainab, a cyclist, who is also waiting at the traffic lights, burning her hair.

Amir is unloading a delivery when he sees Mustapha taking boxes out of his van. He punches Mustapha so hard that his jaw is broken. After work, Amir is late for a darts match and drives the van so fast he is caught speeding.

Evaluate the accuracy of **each** of the four statements A, B, C and D individually, as they apply to the facts in the above scenario. [20]

Start your answer on **page 18** of the Answer Booklet.

Statement A: Zainab can claim against Quickdrop Parcels for her burnt hair.

Statement B: Quickdrop Parcels is **not** liable when Amir punches Mustapha because Amir is no longer doing his job.

Statement C: Mustapha cannot claim against Quickdrop Parcels because Amir committed a crime when he broke Mustapha's jaw.

Statement D: Quickdrop Parcels is **not** liable when Amir is caught speeding.

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