

**ADVANCED GCE
LAW**

Law of Torts

MONDAY 16 JUNE 2008

G147

Morning
Time: 2 hours

Additional materials (enclosed): Answer Booklet (16 page)

Additional materials (required):
None



INSTRUCTIONS TO CANDIDATES

- Write your name in capital letters, your Centre Number and Candidate Number in the spaces provided on the Answer Booklet.
- Write your answers, in blue or black ink, in the Answer Booklet provided.
- Read each question carefully and 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.
- Write the numbers of the questions you answer on the front of your Answer Booklet.
- If you use additional sheets of paper, fasten these securely to the Answer Booklet.

INFORMATION FOR CANDIDATES

- **Quality of Written Communication (QWC)**
Candidates are reminded of the need to write in continuous prose where appropriate. You will be assessed on your written communication and your use of appropriate legal terminology.
- The number of marks for each question is given in brackets [] at the end of each question or part question.
- The total number of marks for this paper is **120**.

This document consists of **4** printed pages.

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 law of negligence focuses on compensation for victims and this is a crucial concept in a modern legal system.'

Evaluate this statement in relation to the concepts of causation and remoteness of damage. [50]

- 2** Discuss the extent to which the tort of trespass to the person offers protection from harm, encourages deterrence on the part of defendants and compensates victims who suffer injury.

[50]

- 3** 'The development of negligent misstatement in tort reflects the need to hold liable those who use words on which others rely.'

Evaluate the accuracy of the above statement. [50]

Section B

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

- 4** Simon and his girlfriend, Jane, are at a music festival. They decide to go on the bungee jump, operated by Ben, and Jane persuades Simon to jump first. Ben has been told by his employer that the rope tension must be checked before every jump but Ben straps Simon straight into the harness. Simon jumps and, as the rope is not tight enough, he plummets to the ground and breaks his neck. Jane is next to jump and sees everything. She suffers severe depression as she feels Simon's injury is her fault.

Another festival goer, Claire, captures the whole incident using her mobile phone camera and she suffers post traumatic stress disorder.

Jane calls Simon's mother, Fiona, who drives straight to the hospital where she is told that Simon will never walk again. She is so grief stricken she tries to commit suicide three weeks later and loses her job.

Advise Jane, Claire and Fiona on any action they may have against Ben.

(Do **not** discuss vicarious liability)

[50]

- 5** Craig works as a chauffeur and drives Rick, his famous rock-star boss, anywhere he wants to go in Rick's sports car. As Rick is abroad on tour a lot of the time, Craig pays his own national insurance and income tax.

When Rick is away, Craig works part-time at Westchester School driving the rugby team minibus. At a match, the captain, Felix, is injured and Craig takes him to Westchester Hospital. Craig waits outside and has a cigarette. When Felix appears Craig carelessly tosses his cigarette towards a litter bin where it falls on newspapers, starting a fire causing £1,000 of damage.

Next day Craig is driving Rick's car to the airport to collect Rick and he takes Felix as a treat. Craig is driving at 80 mph when he loses control of the car and crashes. Felix needs stitches to a cut on his forehead.

Advise Rick and Westchester School whether they may be held vicariously liable for Craig's negligence.

[50]

- 6** At Hilton Park there are three businesses by a river. Julia runs a shop where she dyes wool and knits sweaters. Next door David runs a firework company and he stores gunpowder on the premises. On the other side of Julia's shop, Pete has a picture framing business and fish farm.

One night David goes home, accidentally leaving a window open. Later, during a violent thunderstorm, a bolt of lightning goes through the window and ignites a keg of gunpowder. The explosion blows out the windows in Julia's shop and rain ruins a display of newly knitted sweaters.

A week later, Julia's eight year old son takes some dye off a shelf and tips it into the river, killing Pete's fish. The next day a sharp frost bursts the pipes in Julia's shop. Pete's shop is flooded and a picture worth £200 is ruined.

Discuss the liability of David to Julia and Julia to Pete in the tort of Rylands v Fletcher.

[50]

Section C

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

- 7 Brian buys a cottage to modernise. Jackie, a yoga teacher, lives next door. The noise of Brian's drill late at night keeps Jackie awake. She retaliates by playing loud music early in the morning when she knows Brian is still asleep. When Jackie is out Brian goes into her garden and cuts down an overhanging apple tree because fallen fruit makes his path slippery. As ladies arrive for yoga classes, Brian often stands in his garden in his underwear and shouts obscenities which scare them.

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.

Statement A: Jackie cannot be liable for the tort of nuisance when she plays loud music as Brian kept her awake first.

Statement B: Brian cannot be liable to Jackie in nuisance as he has not caused any physical damage when he stands in his garden in his underwear.

Statement C: Brian does not commit a nuisance when he goes into Jackie's garden to cut down the overhanging tree.

Statement D: Brian can be liable in nuisance to the ladies taking yoga classes.

[20]

- 8 Terry goes swimming at a beach. He ignores a small sign handwritten by the lifeguard, Clive, saying, "Beware – jellyfish!". However, Clive forgets to fly a red flag to forbid swimming. Daisy, a holidaymaker, has read the sign and sees Terry swimming but does nothing. Terry is stung by a jellyfish and asks Clive for medical treatment. Clive gives Terry some cream to rub on the sting. Next day, Terry's leg has to be amputated in hospital as he suffers a massive and completely unexpected allergic reaction to the cream.

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.

Statement A: Daisy is liable in negligence to Terry when he is stung by the jellyfish.

Statement B: Clive is liable in negligence to Terry when he is stung by the jellyfish.

Statement C: Clive is liable in negligence to Terry when his leg is amputated.

Statement D: Clive will be able to rely on the defence of contributory negligence to reduce any damages.

[20]