

**THE JOINT EXAMINATION BOARD**

**PAPER LAW – Basic English Law**

**Tuesday 4<sup>th</sup> November 2008**

**3.00 – 5.00 p.m.**

*Please read the following instructions carefully. **Time Allowed – 2 HOURS***

1. You should attempt **four of questions 1 to 5** in Part A and **four of questions 6 to 10** in Part B.
2. Each question in Part A carries 10 marks and each question in Part B carries 15 marks. Marks for sub-sections of a question are also indicated as appropriate. If five questions are answered in either Part A or Part B, they will be marked in the order presented and the fifth ignored.
3. Please note the following:
  - a. Start each question (but not necessarily each part of each question) on a fresh sheet of paper;
  - b. Enter the Paper Name (LAW), the question number and your Examination number in the appropriate boxes at the top of each sheet of paper;
  - c. The scripts are photocopied for marking purposes. Please write with a **dark inked pen** on one side of the paper only and within the printed margins. Do not use highlighters in your answer;
  - d. Do not state your name anywhere in the answers;
  - e. Write clearly, as examiners cannot award marks to scripts that cannot be read;
  - f. Reasoning should always be given where appropriate.
4. Under the Examination Regulations **you may be disqualified from the examination and have other disciplinary measures taken against you if:**
  - a. you are found with unauthorised printed matter or other unauthorised material in the examination room;
  - b. your mobile phone is found to be switched on;
  - c. you copy the work of another candidate, use an electronic aid, or communicate with another candidate or with anyone outside the examination;
  - d. you continue to write after being told to stop writing by the invigilator(s). **NO WRITING OF ANY KIND IS PERMITTED AFTER THE TIME ALLOTTED TO THIS PAPER HAS EXPIRED.**
5. **At the end of the examination assemble your answer sheets in question number order and put them in the WHITE envelope provided.** Do not staple or join your answer sheets together in any way. **Any answer script taken out of the examination room will not be marked.**

This paper consists of **Four** pages, including this one.

**PAPER LAW – Basic English Law**  
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**Part A**

1. Discuss the procedural steps taken from the commencement of High Court proceedings for infringement of a UK Registered Trade Mark upto but not including the trial. Your answer should include a concise explanation of each procedural step.

**10 Marks**

2. Explain the differences between arbitration and litigation and discuss the advantages and disadvantages of each.

**10 Marks**

3. Describe the roles and functions of the following individuals in civil litigation:

- a. Judge (3 marks)
- b. Barrister (3 marks)
- c. Solicitor (4 marks)

**10 Marks**

4. (a) Explain the doctrine of precedent. (3 marks)

(b) Summarise the structure and organisation of the English civil courts.

(4 marks)

(c) Describe how the doctrine of precedent affects decisions of the English civil courts. (3 marks)

**10 Marks**

5. What is the Overriding Objective of the Civil Procedure Rules? What obligations does it impose and on whom?

**10 Marks**

**PAPER LAW – Basic English Law  
Tuesday 4<sup>th</sup> November 2008**

**Part B**

6. List and provide an explanation of the main classifications of evidence that may be admitted in civil High Court proceedings and how such evidence can be given.

**15 Marks**

7. Gail's dog has recently gone missing. She put up posters around her town offering a £500 reward for information about the whereabouts of her pet. Three days later she receives a call from the RSPCA, who have found her dog. Shortly afterwards but before she has been able to collect her dog, Peter arrives. He refers to the poster but before Gail can tell him the dog has been found he explains that he saw the dog being picked up by an RSPCA officer and gives Gail the registration details of the RSPCA vehicle. He asks for the £500 reward but Gail tells him that she won't pay it as she has already been told of the dog's whereabouts.

**Explain with a discussion as to the legal reasoning for your answer, whether Peter has any claim against Gail and if so what his remedy would be.**

**15 Marks**

8. Identify and explain the various criteria necessary in order to establish grounds for an interim injunction.

**15 Marks**

9. Chris has just come from the MOT testing garage where his car has failed its MOT because the passenger seat belt is defective. Driving back to his house he sees his friend Jeanine and offers to give her a lift in his car. Chris does not mention the defective seat belt but Jeanine does not put on her seatbelt as she finds such things uncomfortable. Chris has to make an emergency stop to avoid a child who dashed out into the road. Because she was not wearing her seat belt, Jeanine is thrown forward and breaks her wrist.

**Explain, with a discussion as to the legal reasoning for your answer, what causes of action, if any, lie against Chris and what remedies are available.**

**15 Marks**

**PAPER LAW – Basic English Law**  
**Tuesday 4<sup>th</sup> November 2008**



10. Your firm of Patent and Trade Mark Attorneys is acting for a UK client who has recently been sued for infringement of a UK registered design. The client's managing director, Walter, is however confused. He doesn't understand the difference between legal professional privilege and his company's obligation to disclose documents for the trial.

- a) Advise Walter as to his company's disclosure obligations in English civil litigation, with reference to the relevant procedures and mechanisms. (5 marks)
- b) Explain how the disclosure obligations interact with legal professional privilege. (3 marks)
- c) One of the possible documents Walter is concerned about is an opinion your firm wrote in relation to the client's infringement of the registered design under which he has been sued. That opinion was written 18 months earlier and was circulated amongst the Board; the Sales and Marketing team; an external design consultant; and the legal department of Walter's company.  
**Explain, with your reasoning, whether or not that document must be disclosed.** (7 marks)

**15 Marks**