

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications :-

B.A.

Laws C9: Contract and Tort II

COURSE CODE : **LAWSC009**

UNIT VALUE : **1.00**

DATE : **14-MAY-02**

TIME : **10.00**

TIME ALLOWED : **2 hours 30 minutes**

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TURN OVER

CONTRACT & TORT II

Answer **THREE** questions including at least one question from **PART B**.

PART A

1. Are the remoteness rules in contract and tort really different? If they are, can you account for the differences? Is there scope for reform?
2. "A party to a contract has an unfettered choice between performing the contract and compensating the other party."

Is this statement true?

3. To what extent should public opinion have a role to play in assessing damages for personal injury?
4. Write a commentary on either *Attorney General v Blake* [2001] 1 AC 268 or *Alfred McAlpine Construction Ltd v Panatown Ltd* [2001] 1 AC 518.

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PART B

5. The Gumly Village Council feels that Gumly is underrepresented in the British Olympics team. In order to remedy the situation, it is decided to build a major sports centre (complete with athletics arena and Olympic-sized swimming pool) just outside the village. Central government subsidies of up to £2m are available in respect of such projects, provided they are completed before the end of 2002. Norman is awarded the contract. This includes the following terms:

- (a) If work is not completed by the end of 2002, Norman is to pay a “penalty” of 2m to the Council.
- (b) The surface of the running track is to be blue (as this is the colour of the local athletics club).
- (c) Payment of £5m to be made when the Council issue a certificate of completion.

For tax reasons, it is agreed that the centre will be built on land owned by the Chairman of the Village Council, Herbert, rather than on land owned by the village. This has the unforeseen consequence that the Council’s application for government funds is rejected because to qualify the Centre would have had to be built on public land.

In December 2002, the works are completed. A Council delegation visits the site in order to determine whether a certificate of completion can be granted. The members of the delegation object that the colour of the running track is purple rather than blue, and refuse to issue a certificate of completion. Norman is furious, and instructs his solicitors to commence proceedings against the Council.

In order to prepare their defence, the Council engage an independent surveyor who makes the following findings:

- (i) the surface of the running track is blue rather than purple;
- (ii) the swimming pool is 2 inches too short; in order to lengthen it, the pool will need to be completely rebuilt.

Advise the Council.

CONTINUED

6. James is a partner in a firm of architects, Forester & Alpine. His car belongs to the firm, but is exclusively used by James. In July 2000 it needs to be serviced. James phones up his local garage, Crooked Motors Ltd, and speaks to the manager, a Mr Sly. He books his car in for service on 15 July 2000, insisting that he requires the work to be finished on 17 July, when he will need the car to drive to Cambridge in order to attend an interview at the City Council in connection with his firm's tender for a major construction project.

On 15 July, James drives his car into the service area of Crooked Motors. He walks up to the reception desk, and hands the keys to Mr Sly, who tells him that the car will be ready for him on 16 July at 5pm. Back at the firm, James realises that he has left his notebook computer on the passenger seat. He phones up Mr Sly, who confirms that the computer is still there. James tells him to take good care of it, adding that it has very important files stored on its hard disk drive.

When James calls at the garage the next day, Mr Sly is off sick. The receptionist hands him his key and an invoice for £400 in respect of the service. James asks her about the computer, but this is nowhere to be found. James was going to give his talk to the City Council with the help of a PowerPoint presentation. He is unsure whether he will be able to be as impressive without it. Unfortunately he has not backed up the file in question.

On the way to Cambridge the next day, the brakes of James's car fail and he has an accident on the M11. Fortunately, he only sustains a mild concussion. He arrives two hours late for his talk. He is nevertheless allowed to make it, but does not show to best advantage. The contract, worth £20m, is awarded to another firm.

When James calls on Mr Sly the next day to pick up his computer, he complains in no uncertain terms. Mr Sly points out to him a notice above the reception desk which reads:

“Any defective repairs carried out by Crooked Motors Ltd will be remedied, free of charge, if identified within seven days. No liability whatsoever, whether for loss, damage or personal injury, can be accepted beyond this. Under no circumstances will Crooked Motors be liable in respect of loss of or damage to anything left inside the vehicle.”

Mr Sly then regretfully informs James that his computer has unfortunately been stolen.

Advise James.

TURN OVER

7. Alonzo is a translator. In July 2001 he was engaged by Academic Publishers Ltd ('APL') to translate a 1000 page monograph on 'The influence of the Victorian Nanny on 21st Century Literature' into Spanish. He was to be paid £1,000 in advance, £5,000 on completion of the first 500 pages and a further £5,000 on completion of the translation before the end of November. The monograph was to be published in Spain and South America at the beginning of 2002. Between August and October, APL spent some £20,000 on a publicity campaign in those countries.

In October 2001 Alonzo had completed half the translation. He was approached by Publish for Profit Inc (PPI) and asked to become their exclusive Spanish translator. He was to start work on translating a best-selling novel immediately. They offered him a salary of £20,000 pa, plus a fee of £30,000 for each novel.

Alonzo felt that PPI's offer was too good to refuse. He therefore sent the completed portions of the translation to APL and informed them that he would not be able to translate the rest of the monograph. He also asked for payment of the £5,000 which he felt APL owed him for half the translation. APL refused to pay. They engaged Manuel to take over the translation. He was to start from scratch (to ensure uniformity of style of the translated text), and, in view of the urgency of the translation, was to be paid a total fee of £15,000. In spite of his best efforts publication was delayed by four months, and the book has only just been released. APL do not have the money to spend on renewing their publicity campaign, and so far sales have not been as good as expected. In fact, only five copies of the monograph have been sold to Spanish and South American university libraries.

Advise APL.

END OF PAPER