

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications:-

LL.B.

LL.B. Intermediate: Contract and Tort I

COURSE CODE : LAWSINT1R

DATE : 26-Aug-03

TIME : 10.00

TIME ALLOWED : 3 hours 15 minutes

03-N25-4-30

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TURN OVER

CONTRACT AND TORT I

Answer **FOUR** questions, at least **ONE** from each of Part A and Part B.

Where a question is divided into two or more parts, **ALL** parts must be answered unless otherwise indicated.

Part A: Contract

1. “The need to draw analytical distinctions between unilateral and bilateral contracts means that it is very difficult to construct a set of coherent principles applicable to the conclusion of a binding contract.”

Discuss.

2. Avian Foods plc (Avian) is the manufacturer of custard powder. It enters into a long-term contract to supply Roseway Supermarkets plc (Roseway) at regular intervals with custard powder at the unit price of 18 pence per tin. Several months after performance under the contract has begun, a devastating case of claw and beak disease kills hundreds of thousands of British hens. The market price of eggs consequently rises by 200 per cent. Hens' eggs are a major ingredient of custard powder. Avian explains its financial difficulties to Roseway and asks for help to keep going during the emergency, 'or else we shall have to call in the receivers and close down our business'. For 'as long as the emergency lasts', Roseway, anxious to secure the continuing supply of eggs, undertakes to pay Avian a unit price of 25 pence per tin.

Several months later, the price of eggs eases back to a figure that is only 50 per cent over the market price at the time the disease broke out. Roseway now demands delivery at the original contract price of 18 pence and also demands that Avian repay the extra sums it received for custard powder during the previous emergency.

Discuss. What would have been the position if Roseway had agreed to reduce by half the quantity of custard powder to which it was contractually entitled so long as the emergency persisted?

CONTINUED

3. Jackson and Pollock are identical twins. Jackson is a famous painter who wishes to develop his reputation as a sculptor; Pollock is a famous sculptor who wishes to develop his reputation as a painter. They share the same artist's studio.

Pollock, who is alone one day in the studio, is visited by Rothko. Mistaking Pollock for Jackson, Rothko asks Pollock to paint a portrait of his deceased mother from a photograph. Knowing that the relationship between Jackson and Pollock is a very close one, and eager to induce the person he believes to be Jackson to paint the portrait, Rothko promises Pollock that he will commission 'your twin brother' to sculpt a bust of his deceased mother. Pollock agrees to paint the portrait.

Discuss.

4. Simon and Lois have recently bought a house in Clapham, which has a rear garden in an overgrown state. They decide to engage Wendy to design a new garden for them and to select a contractor to do the physical work of installation. Simon and Lois are insistent that Wendy will get the design contract only if she secures for them the services of an able contractor. Wendy, who works in close collaboration with Kevin, recommends that Simon and Lois engage his services as a contractor. She tells them that Kevin has an unrivalled reputation for efficient and lasting work and that he successfully installed three gardens in a neighbouring street within the last 12 months. Simon and Lois thereupon enter into separate contracts with Wendy and with Kevin.

Six months after Kevin installs the new garden, the paving stones start to subside and crack: Kevin had failed adequately to prepare the ground. The various shrubs and trees that Wendy had recommended Simon and Lois to purchase from Garden Base do not come into bloom and flower at the times when Wendy had said they would. Simon and Lois have now discovered that this is the first time that Kevin has ever installed a garden.

Discuss.

TURN OVER

Part B: Tort

5. Tom and Jerry are drinking in a bar one evening, and get very drunk. When they leave the bar at closing time, they realise that they have missed the last bus and decide that they do not want to walk home. When they see an empty car by the side of the road, they decide that it would be great fun to steal the car and drive home. Having taken the car, they are speeding down the road at 80 miles per hour, with Jerry at the wheel and Tom encouraging him to drive faster, when the car skids and crashes. Tom is seriously injured and rushed to hospital. His sister, Claire, who shares a house with Tom, on hearing the news from a neighbour rushes to the hospital, where she arrives just in time to see Tom being wheeled into the operating theatre. She collapses and suffers a nervous breakdown.

Advise the parties.

6. Andrea buys a new car in January 2003 from Shady Bob & Co, a car dealership firm. The car is manufactured by Megacar Corporation, who in March 2003 realise from accident reports that the brakes in the model that Andrea has purchased appear not to function properly in wet weather. They refer the matter to their engineering department and take no further action. In April 2003, Andrea is driving along a dual carriageway in South London in rainy weather when she skids, the brakes fail and she spins over the low bank at the side of the dual carriageway, injuring herself severely in the crash. From newspaper reports, Andrea learns about the brake problem. She also learns that the relevant public body, Grubshire Highway Authority, had been warned that the bank over which she spun was excessively low and that a slight risk of an accident existed, but for cost reasons the authority had decided to take no action.

Advise Andrea.

7. 'The common law does not usually give recovery for economic loss in tort, except where a special relationship exists that involves reliance by one party upon the good judgment of the other.'

Discuss, with reference to relevant cases.

CONTINUED

8. Andy is a seventeen year old who attends St. Catherine's comprehensive school. At lunch break, he and three of his friends are playing ball in the school yard, which opens on to a main road. Andy chases a loose ball out into the road, just as Barbara is driving past at 40 miles an hour. She brakes sharply, but nevertheless hits Andy, who is badly injured. After four months in hospital, he is released but continues to suffer from depression arising from the accident.

Advise the parties.

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