

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications:-

LL.B. Affil - Cat 1

LL.B. Intermediate: Contract and Tort I (Resit Paper)

COURSE CODE : LAWSINT1
DATE : 31-AUG-04
TIME : 10.00
TIME ALLOWED : 3 hours 15 minutes

CONTRACT & 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: TORT

1. Andy buys a barbecue cooker from Hogwarts We Ain't, a large-scale retail superstore. The barbecue cooker works very well on the odd day when the weather is good enough to use it, which is seldom. One day, the central heating in Andy's house fails and he decides to light the barbecue cooker indoors and to use it to heat his living room. However, unknown to Andy, the third leg of the cooker has become loose, and when Andy brushes against it, the cooker collapses and sets fire to the living room carpet. Andy manages to stamp out the flames, but is badly burnt and has to be rushed to hospital with serious burns. When Darina, Andy's wife, arrives home, their neighbour tells her that Andy has been terribly injured. Darina rushes to the hospital in a terrible panic to find Andy recovering but nevertheless still in a great deal of pain.

Since then, Darina has suffered from constant depression and sleeplessness. Andy had to stay in the hospital for two weeks, and was unable to work for four weeks after that, and lost £15,000 in wages. They want to sue Hogwarts We Ain't, who tell them that the incident was not their fault, that Andy had behaved in a foolish manner, and that in any case they had only imported the cooker from a Chinese manufacturer.

Advise Andy and Darina.

2. Boris and Bill are old friends. One night, they get drunk in a bar, get into an intense and angry argument, and eventually decide to challenge each other to a fight. During this, Boris knocks Bill down, breaking his nose. This causes Boris to panic, and he decides to take Bill immediately to hospital. The two men stagger outside, and see an unoccupied car. They break into the car and head for the hospital at speed, with Bill shouting at Boris to drive faster. Inevitably, they crash into the side of the road at a dangerous bend, and both are seriously injured. Bill now wants to sue Boris. Boris in turn has heard that the bend where the accident happened was seriously under-maintained by the local authority.

Advise Boris.

TURN OVER

3. "Liability for economic loss in the English law of negligence can arise where a special relationship exists that involves an assumption of responsibility on the part of one of the parties: however, the extent of this exception to the general rules governing economic loss is not clear".

Discuss.

4. Answer **BOTH** a) and b):

- a) Alice sees Barry behaving in a suspicious manner in front of her house. She calls the police who immediately arrive, block off the road and call out to Barry that they want to talk to him. Barry looks around for an escape route, sees that he could go over a nearby garden wall but lacks confidence in his ability to go over it. He therefore feels compelled to go with the police to the police station and he is held there for three hours before he is released. Barry's solicitor has now established that the police clearly acted outside their powers and is threatening to sue them for false imprisonment. The police claim that they would have let Barry go at any time, had he asked.

Advise the police as to their liability in tort.

- b) If the police had failed to respond to Alice's report, and Barry had broken into her house and she had been killed or seriously injured, could a negligence action be brought against the police?

In your opinion, is the current state of the law satisfactory in this respect?

CONTINUED

PART B: CONTRACT

5. Sarah is intending to use her car for a motoring holiday with her friend John. The arrangements for the holiday have been booked and involve them catching a ferry on 2 August. A few days before the holiday is due to start, the car begins to make a curious noise. Sarah takes the car to Mary's garage and explains about the holiday. Mary looks at the car and agrees to undertake the necessary repairs for £500 and to finish the work on 1 August.

Later, on dismantling the car Mary finds that the work needed is more extensive than she expected. She telephones Sarah to tell her that the cost of the work will come to £750. Sarah is concerned that if she takes the car to another garage she will not be able to go on her holiday, so she agrees to pay £750.

John is also worried that the repairs will not be finished in time and so goes to see Mary and promises to pay her £100 if she finishes on 1 August.

The repairs are completed on 1 August. Sarah, who knows that Mary is in financial difficulties, tells her she will pay her only £400. Mary accepts this payment and signs a receipt acknowledging the payment "as full and final settlement". John refuses to pay anything to Mary.

Is Sarah obliged to make further payment to Mary and is John obliged to pay Mary £100?

6. Discuss whether the decision of the House of Lords in *Shogun Finance v Hudson* (2003) has clarified or confused the law on mistake as to identity.

TURN OVER

7. Brown advertises for sale premises containing his restaurant business called "The Plaice" and a flat. Smith expresses an interest in buying. Brown tells him that the business has a turnover of £100,000 a year, that "it meets all the regulations that apply to restaurants" and that Green, who is the tenant of the flat, is "a marvellous tenant".

Smith buys the business and the premises for £500,000. He then discovers that, during the period when negotiations were taking place, the turnover of the business fell by half as a result of the chef leaving and Brown's failure to find a satisfactory replacement. He also finds that the sign at the front of the premises advertising the restaurant is larger than authorised under planning laws and has to be replaced at a cost of £250. It later emerges that Brown had been told by a friend of his who had done a law degree that it was not necessary to get planning permission for such a sign. Finally, Smith discovers that, although Green has never breached his tenancy agreement, he is a leading member of an anti-capitalist political party which publicly criticises certain, named restaurants, including "The Plaice", and claims that they are "symbols of the vile appetites of the rich and greedy". Smith believes the presence of Green will deter clients and damage the business.

Advise Smith.

8. On Monday, the following advertisement, placed by Jack, appears in *Camden News*: "For sale Jupiter sports car £1000. Also Retupmoc computer for sale £500 or nearest offer received by Wednesday." That day, Sam telephones and offers Jack the asking price for the car. Jack replies that Mary has already expressed an interest in the car, but that she has not made any decision so he says to Sam, "Give me your address just in case Mary doesn't decide to buy." Sam gives him the address and remarks, "Just get in touch if you want to accept my offer."

On Tuesday, Mary decides she does not want the car and Jack posts a letter to Sam in which he says, "I am accepting your offer to buy the car for £1000." Jack puts the wrong address on the envelope, although this does not delay its delivery. On Wednesday morning, Sam writes to Jack offering to pay £1200 for the car. Shortly after Sam posts this letter, Jack's letter arrives. Sam immediately e-mails Jack that he is delighted at having bought the car for £1000 and cancels the offer of £1200. Jack has not opened his e-mails when Sam's offer of £1200 arrives on Thursday. He immediately posts a letter of acceptance.

On Wednesday, Jack sells the Retupmoc computer to Terry for £400, although earlier he had received an offer of £450 from Chris.

Advise

- a) Jack on whether he has sold his car and, if he has, at what price;
AND
b) Chris on any action he might take in contract law.

END OF PAPER