

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:--

LL.B.

LL.B. Part II: Media Law (Privacy) – half option

COURSE CODE : LAWSII37

DATE : 08-MAY-06

TIME : 10.00

TIME ALLOWED : 2 Hours 30 Minutes

MEDIA LAW (PRIVACY)

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

PART A

1. Why have the courts been reluctant to formulate a privacy right against media infringement? Are they required to recognise such a right under the Human Rights Act 1998?
2. “The principles by which it is determined whether a publication defames the claimant are far from clear. It is quite unpredictable, for example, whether remarks will be treated as defamatory or as merely insulting.”

Discuss.

3. What are the implications, if any, of the decisions of the European Court of Human Rights for English libel law?
4. To what extent does English law now recognise the right of celebrities to stop, or secure compensation for, the unauthorised commercial exploitation of their photograph or other features of their identity? Should it recognise a publicity right, as in the US?

TURN OVER

PART B

5. Arthur, unmarried, is a Green Party councillor in Broadmouth. He is a leading campaigner against car use. The local newspaper, the *Broadmouth Chronicle*, is told by a reputable source that Arthur is having an affair with an actor who is known to be gay, and that they take frequent driving holidays in the United States. Journalists investigate the story and discover that Arthur has been twice to the United States with the actor, and that on one occasion they did drive there for a week. They attempt to contact Arthur to check the details but he does not reply to the messages they leave on his answer-phone. In fact Arthur and the actor are close friends, but are not having a homosexual relationship.

The newspaper editor who is hostile to the Greens decides to publish a short feature article about Arthur; it states that he spends vacations in the United States with an actor friend, describing the councillor's driving holidays as 'bizarre for an enemy of the motorist'. The headline to the article runs: 'THE GAY HABITS OF OUR GREEN COUNCILLOR?'. One of Arthur's friends sends the newspaper a photograph Arthur had given him; it shows Arthur at the wheel of a sports car.

Shortly after its publication, Derrick, a Conservative councillor, refers to the newspaper story and accuses Arthur of 'blatant hypocrisy, typical of the Greens' during a debate in the Council chamber. His speech is broadcast live on Broadmouth Community Radio, which repeats the broadcast a week later, and refuses Arthur an opportunity to broadcast a reply to the accusation.

Advise Arthur whether he should take defamation proceedings and against whom. He also wants advice whether he can stop publication of the photograph which he knows the newspaper has obtained.

6. Allegations are published in a Canadian newspaper, the *Toronto File*, that Eagle, an oil magnate, a citizen of the United States and resident in New York, has been involved in an international gun-running conspiracy. Eagle is known in England; he controls a number of United Kingdom companies, has an apartment in London and one of his sons is at the LSE. The *Toronto File* has a circulation of 12 copies in England. The allegations are put on the newspaper's web-site, though the site registers only 20 direct hits from England. But the story is put on the BBC web-site, and so becomes known to hundreds of surfers in this country.

In fact, the story is totally without foundation. The *Toronto File* had made no attempt to check the story which it received from an anonymous caller, and had circulated it in an attempt to boost its falling circulation. When it realises the truth, the BBC immediately removes the story from its web-site.

Advise Eagle whether he can take legal proceedings in England, and what damages he could recover, if he can bring proceedings.

CONTINUED

7. Fabrizia, now aged 28, is the well-known presenter of a popular children's television programme. As a young girl in her teens, she briefly had problems with drugs and had a baby who was subsequently adopted. She refuses to be photographed at all when on holiday with her partner, Gareth, and declines to give interviews for tabloid newspapers and celebrity magazines, but she has occasionally spoken about her life on radio programmes without disclosing her teenage difficulties. In one programme, she said: 'I had a few teenage problems, but no more than most girls.'

The News of the Universe has been given details of Fabrizia's drug problems and the birth of her child by its father. It publishes them in the course of a series of weekly articles under the headline 'THE MYSTERIOUS CHILDHOOD OF TODAY'S TV CELEBRITIES'. The following week, journalists from a rival newspaper, *The Sunday Blower*, attempt on a number of occasions to interview Fabrizia, when she and Gareth are on holiday in Mallorca, but she declines. So *The Sunday Blower* publishes a fabricated interview, and shows several photographs of the couple swimming, sun-bathing, and walking in public parks. It publishes further photos of them on holiday in the following two weeks.

Advise Fabrizia what redress, if any, she has against the newspapers.

END OF PAPER