



UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education Advanced Level

LAW

9084/43

Paper 4 Law of Tort

May/June 2011

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.

Write your Centre number, candidate number and name on all the work you hand in.

Write in dark blue or black pen.

Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

At the end of the examination, fasten all your work securely together.

The number of marks is given in brackets [] at the end of each question or part question.

This document consists of **3** printed pages and **1** blank page.



Candidates must attempt **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

Section A

- 1** A judge may only award an injunction as a remedy in the law of torts when it is considered just and convenient to do so.

Using appropriate case law, critically analyse the circumstances under which injunctions have been awarded as remedies. [25]

- 2** The distinction drawn between pure economic loss and other kinds of loss is one that is difficult to justify.

Briefly explain why purely economic loss is treated differently in the tort of negligence and, with reference to case law, critically assess the extent to which this statement is true. [25]

- 3** The rights that exist between neighbours are satisfactorily protected by the tort of private nuisance.

With reference to decided case law, critically assess the extent to which you agree with this statement. [25]

Section B

- 4 John and Ginnie have been married for 25 years and, to celebrate the occasion, they decide to take a holiday on a ship cruising around the islands of the Caribbean. They board the cruise-ship MV Kitts and Nevis, owned by Worldwide Shipping Lines. The cruise-ship is approaching its first port of call when it hits a reef and it begins to sink. There are insufficient lifeboats for all the passengers and John and Ginnie have to jump into the sea and attempt to swim to safety.

John does not manage to put on a life jacket before jumping into the water and is drowned. Ginnie survives the incident but her elderly father has already been informed by the police that she is missing, presumed dead, and suffers significant nervous shock.

Investigations disclose that the ship's captain and many of the crew were under the influence of narcotics (drugs) when the incident occurred.

Advise the ship's captain and Worldwide Shipping Lines of their potential liability in tort towards Ginnie regarding her husband's death and towards her father for the mental anguish caused. [25]

- 5 Cantab Fitness is a gym and pool complex. Samana and her friend Amira are members of the gym and each pays a monthly subscription. Samana goes for a work-out in the gym and is electrocuted and badly burned when she turns on the shower in the changing rooms afterwards. Amira severely injures her back and she breaks a valuable watch that she is wearing when the cable on the rowing machine which she is using snaps and she falls backwards off the machine.

Cantab Fitness denies liability for Samana's injuries on the basis that the showers have recently been installed by a local firm called Madeley Plumbers. When Amira complains, she has her attention drawn to the terms of membership which exclude Cantab Fitness from liability for members' injuries sustained while using the equipment supplied.

Advise Cantab Fitness of their liability in tort for the injuries to Samana and Amira and for the damage to Amira's watch. [25]

- 6 Owen is lead singer with a band. He is in a bar having a drink with his friend Marcus when he is recognised by Bobby, a fan of the band.

Bobby approaches Owen several times during the evening, trying to persuade him to sing to the bar's customers. Bobby shouts abuse at Owen when he refuses to sing, so Owen gets up from his seat and moves threateningly towards him. When their faces are no more than a few centimetres apart, Owen tells Bobby that if he wasn't with his friend Marcus he would hit him. He gives Bobby a gentle push on the shoulder as he speaks.

Owen returns to his table. Bobby resumes his verbal abuse so Owen and Marcus decide to leave. Owen stands up and reaches for his wallet in his pocket so that he can pay for their drinks. Thinking that Owen is pulling out something with which to hit him, Bobby quickly picks up a chair and hits Owen over the head, knocking him out.

Marcus then grabs Bobby from behind, pushes him into the toilets and locks the door behind him. Bobby remains locked in the toilets until the police arrive about an hour later.

Advise Bobby, Owen and Marcus as to their respective liability, if any, in trespass to the person following this incident. [25]

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