

NATIONAL UNIVERSITY OF IRELAND, GALWAY
FACULTY OF LAW

SEMESTER I EXAMINATIONS - 2002/2003

2ND YEAR BACHELOR OF ARTS (LEGAL SCIENCE)
ERASMUS/OCCASIONAL STUDENTS

TORT I (LW203)

Mr. Eoin Quill
Ms. U. Connolly

Time allowed: TWO hours. (ERASMUS students have **Two and a Half Hours**)
Please Answer THREE Questions Only. All questions carry equal marks.

1. "Not only must there be damage (injury); it must have been *caused* by the defendant's fault."
Fleming, The Law of Torts.
Discuss this statement in the light of how the Irish courts have dealt with the issue of causation.
Include in your answer a discussion of *novus actus interveniens*.

2. Mike and John meet for a few drinks in their local pub. After having about five pints there they leave to go home. Mike offers John a lift, which he accepts. On the way out of the pub John slips on some spilt beer and falls. He injures his right hand, but as he is drunk barely notices. The publican sees them leaving and escorts them to Mike's car to ensure that they don't fall over again. On their way home, Mike, who is driving too fast, loses control of the car and runs into Mary. Mary was at the time walking home on an unlit part of the road. She is not carrying a torch nor is she wearing any reflective clothing.

Advise:
(i) Mary on her right to recover against Mike and the publican;
(ii) John's right to recover against the publican.

3. Please answer either (a) or (b).
(a) "The law protects us...not only against hurt and violence, but against every kind of bodily interference and restraint not justified or excused by allowed cause and against the (immediate) apprehension of any of these things."
Dullaghan v Hillen [1957] Ir Jur Rep 10.
Discuss the tort of trespass to the person in the light of the above statement.

OR

(b) "Trespass to land consists of any unjustifiable intrusion by one person onto land in the possession of another. The intrusion may be intentional or it may be negligent: in either case, it is actionable in the absence of lawful justification."
Royal Dublin Society v Yates [1997] IEHC 144.
Discuss the tort of trespass to land in the light of this statement.

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4. The neighbour principle and the concepts of proximity and foreseeability now allow for recovery in areas that have historically been excluded from liability in the realm of tort law. Discuss this statement with reference to either economic loss or nervous shock. Support your answer with reference to appropriate legal authority.
5. In a bid to get away from it all Paul has sold his city home and moved to a rural area where he has started an organic farm. It is of interest to many local schools and other agricultural groups but is opposed by some local anti-organic protesters. They have notified Paul of their opposition to his farm and he suspects that they may try and interfere with some of his crops. Paul has erected a sign stating that 'The Occupier accepts no responsibility for any loss or damage to any person or property of entrants or trespassers on this property.' One morning some of the protesters enter the farm with the intention of spreading artificial fertiliser on some of his crops. However, their plans are foiled when one protester falls down a hole that Paul has partially covered up to prevent it from filling with rainwater. Later that day a local school visits the farm. It is the responsibility of the school to ensure adequate supervision. Paul notices that the group is particularly large and that there is only one teacher but says nothing, not wishing to offend the teacher in question. One child strays from the group, falls down the same hole and is also injured. Advise John as to his liability for injury to the protester and to the child.

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