

## NATIONAL UNIVERSITY OF IRELAND, GALWAY

## FACULTY OF LAW

SEMESTER I EXAMINATIONS - 2002/2003

THIRD CORPORATE LAW  
 SECOND, THIRD AND FOURTH LL.B  
 SECOND & THIRD BCL  
 THIRD B.A. PUBLIC & SOCIAL POLICY  
 OCCASIONAL/ERASMUS STUDENTS

LABOUR LAW I (LW212)

Prof. A. McColgan  
 Ms. L.A. Buckley

Time allowed: **TWO** (2) hours (2 ½ hours for Erasmus students).

Answer **THREE** (3) questions. All questions carry equal marks.

*Students are permitted to bring an unmarked copy of the Employment Equality Act, 1998 into the exam.  
 Erasmus students are permitted to bring an unmarked language dictionary into the exam.*

1. Ted works as a hairdresser in a small town in Co. Galway. In recent months he has become increasingly uncomfortable with the behaviour of a particular client, Maud, who always asks for Ted to do her hair. Maud, a regular client, began six months ago by pestering Ted to go out on a date with her, a request which he refused. Since then, Maud continually stares at Ted, and attempts to grab him whenever he passes her chair. She has also made several loud remarks about his 'fine ass' when he has bent over to pick things up. He has tried to discuss the matter with his employer, Ciara, and asked her to assign Maud to a different hairdresser. Ciara responded by telling Ted to stop taking himself so seriously, as it was all just a bit of fun. She also said that since Maud was a regular client, and very popular in the area, it wouldn't do to upset her. Recently Maud approached Ted as he was leaving work, describing in graphic detail various acts she would like to perform with him. Ted was petrified and fled on his bicycle at top speed. Unfortunately, some of his fellow employees witnessed the incident and have now begun to tease him about Maud's fixation on him, making offensive jokes and comments. He has also found pornographic magazines in the staff room with his and Maud's names written over some of the models. He could only assume the magazine had been put there by one of his fellow employees, Andrea, Steve and Joan, but none of them would confess to doing so. When he complained to Ciara, she said there was nothing she could do about people's private reading material, and that Ted should 'toughen up' and 'stop being so sensitive'. Ted has begun to eat his lunch on his own to avoid the teasing and is becoming increasingly depressed. Advise Ted as to any legal action he can take.
2. Describe and critically analyse the role played by market forces as a defence to equal pay claims in Irish and European law. Support your answer by reference to appropriate legal and academic authority.
3. *'The duties of fidelity and obedience unfairly prioritise employer interests and prerogatives over workers' rights'.*  
 Do you agree? Critically discuss the Irish law in this area in light of the above statement, supporting your answer by reference to appropriate legal authority.
4. *'There is no clear division of functions either between collective and individual, or between the institutions and the functions assigned'.*  
 - Fennell & Lynch, *Labour Law in Ireland* (1993), p. 2.

Critically analyse the institutions and court structure of Irish labour law in light of the above statement.

PTO

5. Alan has worked as a computer consultant for Megarich Computers in Dublin for over a year. His role within the company is to advise on particular ongoing projects and to aid the existing programmers within the company to deal with problems as they arise. To carry out his work he is required to attend fortnightly meetings where problems are discussed. He must also produce monthly progress reports on existing projects. He does not work set hours, nor does he have to be available outside of the days when the meetings take place. In practice however he is often called in at various times when particular problems arise. The rest of his work he carries out at his office at home. Alan's contract states that he is an independent contractor, and is free to work for other companies. However, he must inform Megarich of the identity of any companies he works for, due to the risk of sensitive information being leaked to competitors. As Alan earns quite a lot of money working for Megarich he is reluctant to work for other companies, in case it jeopardises his current position. Alan is paid by the hour on a monthly basis. His contract clearly states that he is not entitled to any holiday pay, or other benefits and that he is responsible for his own tax affairs. Last month, Alan accidentally knocked down and severely injured a pedestrian, Kate, while on his way to his fortnightly meeting at Megarich. Kate's solicitor immediately wrote to Megarich claiming compensation, but Megarich disclaimed all responsibility for Alan's actions. Advise Kate.
6. Sarah, a Nigerian national resident in Ireland, recently applied for a job as receptionist and telephonist in the Celtic Mist Hotel in Galway. The hotel's main market consists of American and continental tourists searching for the 'genuine Irish experience', and management places a lot of emphasis on having traditional music and dance shows in the hotel cabaret. The hotel staff all wear green uniforms covered with shamrocks, and have name tags with their names in Irish. At the interview, Sarah was asked if she was planning to go back to Nigeria, and if she would be willing to change her 'Afro' hairstyle. She was also asked if she was married, as one of the interviewers stated that he 'knew that black women always had huge families and wondered how she would cope with childcare'. A week later, Sarah was informed that she had not been successful for the interview, as she did not really fit in with the 'Celtic' image the hotel wished to convey. Also, the hotel felt that Sarah's accent, combined with her poor English, meant that she would not be suitable as a receptionist and telephonist. Instead, the job was given to Liam, a red-haired native Irish-speaker from County Cork. Advise Sarah.

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