

GX 1822

Ollscoil na hÉireann, Gallimh
National University of Ireland, Galway

Semester II Examinations, 2002/2003

Exam Code(s)	1BL1, 1CL1, 1CW1, 2BL1, 2BL2, 3BL1, 3BL2, 4BL2
Exams(s)	1 st 2 nd 3 rd & 4 th LL.B. 1 st Bachelor of Corporate Law 1 st Bachelor of Civil Law
Module Codes(s)	LW329
Module(s)	Tort
Paper No.	1
Repeat Paper __ Special Paper __	
External Examiner(s)	Mr. Eoin Quill
Internal Examiner(s)	Ms. Ursula Connolly Ms. Shivaun Quinlivan
<u>Instructions</u>	Please answer FOUR questions only. All questions carry equal marks. Please indicate to question you have attempted on the front of your answer book.
Duration	THREE Hours
No. of AnswerBooks	
<u>Requirements:</u>	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	Products Liability Act 1991
No. of Pages	4
Department(s)	Law

1. Please answer either (a) or (b):

- (a) Michael was driving his car to an important meeting for which he was late, when the car suddenly veered across the road and into the side of Ann's car. Ann, who was on her way to the airport for a two-week holiday in the sun, misses her flight and has to cancel her holiday. She also suffers a recurrence of a back-injury which she has occasionally suffered from since a workplace accident a year ago. She seeks to recover from Michael for her back injury and for the cost of her holiday. An examination of the car has found that the steering was faulty. Michael is incensed as he had just that morning picked up the car from the local garage, where they had assured him that the car was in perfect condition.
Advise Michael as to any liability with reference to the principles of causation and remoteness.

- (b) While the imposition of a legal duty of disclosure in medical negligence cases is clear, the standard of disclosure has presented greater difficulties.
Discuss this statement in light of recent judicial decisions in this area.

2. John goes to Bookend, his local bookshop. When he is leaving the shop, having bought nothing, the shop alarm goes off. A security guard employed by Bookend rushes over to him and says 'Young man, I would like a word with you, if that is alright.' John says 'No it's not alright' and goes out the door. The security guard walks after him and states in a very threatening manner 'Come on sonny, I need to bring you to the manager's office.' John is somewhat scared of the security guard and doesn't feel he has a choice and goes to the manager's office. The manager asks him if he doesn't mind emptying his backpack and because the security guard is hovering in the background he complies with the request. Nothing in John's bag could have been taken from the shop. The manager apologises for any inconvenience caused to John. Advise John as to his position in relation to the tort of trespass.

3. "The courts have, in recent years, begun to recognise that employers can be liable for mental injury caused by workplace incidents."
Discuss, with reference to appropriate legal authority.

4. Mary owns a Vespa scooter which she bought from Galway Scooters. They in turn import the scooters from a reputable firm, *Scootos*, based in Japan. One morning Mary gives her friend Bill a lift to work on the scooter. While approaching a traffic light, Mary's brakes fail and she crashes into the car in front, badly damaging the front of her scooter. Both she and Bill are thrown to the ground and are injured. The car in front is only scratched. It appears that the brakes failed due to a defect in the scooter.

Advise Mary and Bill as to their right to recover under the Products Liability Act 1991 and the law of torts.

PTO

5. Please answer either A or B.

- A) In March 2003, the *National Daily*, a broadsheet newspaper, runs a story about Paul Williams, a well-known singer who is married with three children. Paul Williams is known for his clean living image and for being a non-drinker and smoker as well as being a founding member of the anti-drug movement - 'Just say No.' He is currently touring Ireland, and the following is an extract from the article.

Paul Williams founder of the 'Just say No' campaign was out on the town this week. Paul Williams was seen in the company of several young female fans and according to one of these young women he was 'high as a kite, and it was drinks on him all night.' So much for the good boy image he has so carefully cultivated, it appears there is more to Paul Williams than meets the eye.

The newspaper got the story from a source they often use. The source is generally very reliable and the paper is not prepared to reveal their source. It appears that, unknown to the paper, the source of the story got the names wrong and confused the singer Paul Williams with the broadcaster and party animal William Paul. Paul Williams has come to you for your advice, please advise him.

Or

- B) What defences are available to an action based on defamation? Illustrate your answer by reference to relevant case law, and academic commentary.

6. Mary has a pet goat named 'Billy.' Billy is very affectionate and gentle towards Mary and is also quite protective of her. Billy expresses his protectiveness by running at those he perceives as a threat or by butting them. Billy has occasionally butted people who have come to the house such as the postman, the neighbours and the milkman. Mary has never seen Billy behave in this fashion. However, her neighbour John has often joked with her about the goat's behaviour calling him 'Billy the Puck Goat.' During the past week Michelle called to Mary's house as Michelle was collecting money for the local swimming club. Billy chased Michelle and butted her quite fiercely, so much so that Michelle has suffered three broken ribs. Michelle's father Paul has come to you seeking advice, please advise Paul.

PTO

7. Michael is a reclusive writer of romantic horrors, who lives in a quiet residential estate in Galway. His general work pattern is to sleep during most of the day and get up at about 3 p.m., from when he works until approximately 6 a.m. the following morning. He feels that in this way he can benefit from the silence afforded by that time of day. The estate is one which is occupied mainly by working professionals. Recently, some students have moved into the estate. While their sleeping patterns do not differ too radically from that of Michael's, the way they occupy their time is in stark contrast. Most weekends and weekdays are spent playing music loudly and having friends to visit. There are frequent parties. None of the other neighbours appear to be too concerned as the student house is on a corner and only connected to Michaels. Advise Michael as to any action he can take.
8. Compare and contrast the approach taken by the Irish and English Courts to the right to recover for psychiatric injury or 'nervous shock.'

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