

GX 1695

**Ollscoil na hÉireann, Gallimh**  
**National University of Ireland, Galway**

**Semester II Examinations, 2003/2004**

<b>Exam Code(s)</b>	1CL1, 1CW1, 1EM1, 1OA1.
<b>Exams(s)</b>	1 <sup>st</sup> Bachelor of Corporate Law 1 <sup>st</sup> Bachelor of Civil Law Erasmus & Occasional Students
<b>Module Codes(s)</b>	LW328
<b>Module(s)</b>	Contract Law
<b>Paper No.</b>	
<b>Repeat Paper __ Special Paper __</b>	
<b>External Examiner(s)</b>	Mr. Eoin O'Dell
<b>Internal Examiner(s)</b>	Ms. Nicola Murphy
<b><u>Instructions</u></b>	Answer <b>FOUR</b> Questions
<b>No. of AnswerBooks</b>	
<b><u>Requirements:</u></b>	
<b>Materials Permissible</b>	
<b>Department(s)</b>	LAW

PTO

1. George places an advertisement in the *Galway Advertiser* stating that he wishes to let out commercial premises in the city centre. Dolores, who is based in Dublin, sees the advertisement and enters negotiations for the lease. The negotiations take place by means of telephone and fax. George eventually sends her a fax setting out his terms. She replies by fax, agreeing to all his terms and also stating that the premises must be redecorated at George's expense before she moves in. She ends the fax with the words "*there is no need to contact me*". George replies by letter, saying that he will be happy to redecorate. Due to a partial strike by postal workers, the letter does not reach Dolores until five days after it was posted. In the meantime, she has found cheaper premises in Galway and sends a fax to George telling him that she will not be leasing his property. George believes he has a contract with Dolores and wishes to sue her for breaching it.

Advise George.

2. "*The time may soon come when the whole sequence of cases based on promissory estoppel since the war, beginning with Central London Property Trust Ltd. v. High Trees House Ltd, may need to be reviewed and reduced to a coherent body of doctrine by the courts.*" (Lord Hailsham LC).

To what extent are these problems or incoherent doctrines still in existence?

3. "*The nineteenth-century distinction between 'conditions' and 'warranties' has given way to a more flexible test.*"

Critically evaluate this statement with reference to relevant case law.

4. To what extent is it true to say that once an agent has brought his principal and a third party into a contractual relationship, the agent drops out, and has no rights or liabilities as against the third party?
5. Anna offers to sell her cake shop to Penelope. She tells Penelope that the shop made a profit of €20,000 the previous year and hands her a set of accounts. Penelope does not bother to check the accounts because she thinks that Anna has such an honest face. Penelope asks about customers and Anna tells her that her best customer, accounting for almost 20% of her business, is the Law Faculty. Penelope remarks that several tables could be fitted outside in sunny weather, in a corner adjoining another shop. Anna says that she will have to ask permission from the owners of the other shop, but that they are such pleasant people that they will be sure to consent.

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Before Penelope signs the contract, the Law Faculty tells Anna that they have all given up eating cake. She does not bother to pass this on to Penelope. Penelope buys the shop and on the first sunny day asks the owners of the adjoining shop if she may set up some tables and chairs in the area between their shops. They become furious and say that Anna annoyed them with the same request on numerous occasions and that they had always turned her down. Shaken, Penelope looks at the accounts for the first time and finds that the shop made a loss of €2,000 the previous year. She then discovers that the Law Faculty is no longer a customer.

Advise Penelope.

6. Answer (a) and (b).

(a) Daniel, a maths lecturer, has a beautiful singing voice. It is his dream to give up lecturing and break into show business, so he is delighted when Madame Marietta offers him a six-month contract to sing at her club. Two days before his first gig a colleague tells him that Madame Marietta's club is actually a brothel. He is horrified and refuses to sing. Madame Marietta threatens to sue him for breach of contract.

Advise Daniel.

**AND**

(b) Philip works for Galway Music Ltd, a company which provides bands for local pubs. Philip liaises with the publicans to discover what kind of band they need. As a result, he has a very good relationship with the owners of the pubs which are the major music venues in Galway. He decides that it is time for him to set up in business on his own. However, he notices a clause in his contract of employment which states:

*"On leaving our employment, you must not, for a period of twelve months, work for any business which provides live or recorded music in any pub in Galway, Dublin, Cork or Limerick."*

Philip asks you if he can be prevented from setting up his own business in Galway as a result of this clause.

Advise Philip.

**END.**