

GX 1722

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

Semester II Examinations, 2003/2004

Exam Code(s)	2CL1, 1EM1.
Exams(s)	2 nd Bachelor of Corporate Law Erasmus & Occasional
Module Codes(s)	LW404
Module(s)	Commercial Law II
Paper No.	1
Repeat Paper __ Special Paper __	
External Examiner(s)	Professor H. Ellis
Internal Examiner(s)	Ms. C. van Strien-Reney
<u>Instructions</u>	Answer <u>THREE</u> questions All questions carry equal marks
Duration	<u>TWO</u> Hours
No. of AnswerBooks	
<u>Requirements:</u>	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	
Department(s)	Law

PTO

1. Stephen and Julia worked as journalists for the *Galway Times* newspaper. Stephen worked from 9 a.m. to 5 p.m., Monday to Friday. He had an office in the newspaper's premises. He wrote a daily column for the newspaper. He was also obliged to attend staff meetings every week, at which he could make suggestions regarding the content and development of the newspaper. He was paid a regular salary, including paid holidays.

Julia wrote for the newspaper on a frequent basis. She contributed approximately one article per week – sometimes more – but was not obliged to contribute an article in any particular week. She was paid for each article published. She worked from home, but as she had worked for the *Galway Times* for many years, the owners of the newspaper supplied her with a computer, printer and fax machine, which she set up in her apartment.

Due to a downturn in the economy, the *Galway Times* has now gone into liquidation.

Please advise Stephen and Julia whether they are employees of the *Galway Times* or independent contractors, and explain briefly the significance of the distinction.

2. Please assess critically the major innovations introduced by the Copyright and Related Rights Act 2000.
3. Anthony opened a Galway branch of his business. He contacted a local insurance company, West of Ireland Insurance. Their agent, Sylvia, gave him their standard proposal form. To the question "Have you made any insurance claims in the past five years?" Anthony honestly answered "No". When Sylvia asked him if he had any other relevant information to disclose, Anthony told her that he had been convicted of larceny ten years earlier. Sylvia decided that the conviction was not relevant, and advised him that there was no need to disclose it on the proposal form.

Before the contract of insurance with West of Ireland Insurance was signed, Anthony's main business in Dublin was burgled. A large quantity of stock was taken and a considerable amount of damage was caused to the premises. Anthony lodged a claim against his insurance company in Dublin, but did not tell West of Ireland Insurance about this. The following week he signed the contract of insurance with West of Ireland Insurance.

Six months later, Anthony's Galway business was also burgled. He lodged a claim against West of Ireland Insurance for the loss and damage suffered. However, West of Ireland Insurance are now seeking to avoid the contract on the grounds that Anthony did not disclose his conviction on the proposal form, or inform them about the Dublin claim.

Please advise Anthony.

4. Please examine critically the Irish law relating to non-promissory security, and consider the case for reform.
5. "*There is no keener sense of injustice than is felt by someone who has doubts about whether the arbitrator is doing his honest best*".

Please discuss the issues of independence and impartiality of arbitrators, with reference to decided cases and academic commentary.

END