

Semester II Examinations, 2004

Exam Code(s)	2BA1
Exam(s)	2 BA & Erasmus Students
Module Code(s)	LW 206
Module(s)	Tort Law II
Paper No.	
Repeat Paper	Special Paper
External Examiner(s)	Mr. Eoin Quill
Internal Examiner(s)	Ms. Ursula Connolly

Instructions: Please answer three questions.
All questions carry equal marks.
Please indicate on your answer books which questions have been attempted.

Duration 2 hrs
No. of
Answer books

Requirements:

Handout
MCQ
Statistical
Tables
Graph Paper
Log Graph
Paper
Other Products Liability Act 1991
Material
Department(s) Law

PTO

1. Máire buys a second hand car from her local garage, O'Briens. The car was manufactured by Voitures, a company based in France. The second day after purchasing it, she decides to go on a tour of Connemara. While negotiating a dangerous corner, the brakes fail and Máire crashes into some sheep that were crossing the road at that precise moment. She realises to her horror that she has killed at least one sheep. Máire has cuts and bruises and is traumatised by the event. There is also some damage to the front of the car. O'Briens has denied any responsibility arguing that a reputable mechanic had verified that the car was in perfect working order the week before the car was sold to her.
Please advise Máire as to her position under the rules relating to products' liability in tort.
2. Despite criticism that the tort of nuisance is 'incapable of exact definition' it is still clearly distinguishable from an action in negligence.
Please discuss.
3. Anne works as a hairdresser with Chic Cuts, a busy city centre hair and beauty salon. Recently she has been feeling increasingly overworked and stressed due to the pressures placed on her by her ambitious manager, Tracy. Things have not been helped by the fact that the salon has been experiencing difficulties with their electrics recently. It is Saturday and although an electrician cannot come out until Monday, Tracy decides not to close the salon for cost reasons. A colleague of Anne's suffers a nasty shock when plugging in a hairdryer and has to receive medical attention. That particular power point was known to be dangerous but Anne's colleague had not been warned. Anne witnesses the event and is there to assist her colleague into the ambulance. She has indicted Tracy that she cannot continue much longer. Tracy is sympathetic and says she will discuss Anne's concerns with her the following week.
In the meantime Tracy seeks your advice as to any potential liability.
4. Please discuss the defences afforded by the Civil Liabilities Act 1961.
5. Please answer either (a) or (b):
 - (a) The proposals of the Legal Advisory Group on Defamation, if adopted, will bring about a much-needed reform of the tort of defamation.
Please discuss.

OR

- (b) Sean Smyth is a well-known member of the Liberal Party. The Liberal Party's manifesto proclaims it to be a group dedicated to 'removing all legislative interference in peoples' lives' and 'working towards the destruction of organised religion', which it sees as a 'a destructive and divisive force in today's society.' It has recently come to Sean's attention that a gossip magazine called 'Tittle Tattle' plans to publish an article about him. The article, entitled 'Sanctimonious Sean' reads as follows:

"Sean Smyth likes to portray himself as the ultimate wild man, given to wild parties, drugs and rock and roll. Apart from some sightings of Mr. Smyth in well-known drug dens around Galway, his life is far tamer than we have been led to believe. He is in fact a member of the Followers of Jesus and has been for a number of years. This organisation, which meets monthly to pray and fast, is dedicated to spreading peace, joy and goodwill in a non-violent, inclusive manner. Sean Smyth is clearly a hypocrite who has decided to mislead the simple people of Galway with his scheming and lying ways."

Sean is horrified by the article. Although he has certainly taken drugs he has at no time been a member of the Followers of Jesus. He suspects that 'Tittle Tattle' has confused him with his brother, Shane Smyth, a committed Christian, to whom Sean bears a striking resemblance.

Advise Sean as to his position under the law of torts.

END