



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF DECEMBER 2001

CODE AND NAME OF COURSE: LA20A - LAW OF TORTS II

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.

Answer THREE (3) questions, at least ONE (1) of which must be selected from PART B. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

PART A

1. Examine, with particular reference to Commonwealth Caribbean case and statute law, the basis and scope of the liability of the owner of animals for negligence with respect to harm caused by such animals.
2. You are consulted by Bertie Beanpole, the general manager of a new manufacturing company in a Commonwealth Caribbean jurisdiction. Write a memorandum to Mr. Beanpole explaining the nature of the legal duties of an employer to protect its employees from injury, and the nature of the liability of an employer to an employee who is injured at the workplace.
3. Explain the implications in the tort of passing off of the commercial use of:
 - (i) geographical names;
 - (ii) personal names; and
 - (iii) internet domain names.

P. T. O.

PART B

4. Nicholas and Oliver, former pupils of Dotheboys Hall, a boarding school for young boys who have learning difficulties, made certain allegations of sexual abuse against Dickens, the headmaster. Dickens was later arrested and charged with the crimes of buggery and indecent assault. Dotheboys Hall is owned and operated by Great Expectations Ltd.

Two months ago, the *Old Curiosity* newspaper reported that "the headmaster of a local school and his wife have been charged with offences of sexual abuse involving educationally subnormal children." In fact, no such charges have been brought against Mrs. Dickens. In writing the report, the reporter had relied on incorrect information given to him by Police Inspector Pickwick.

Advise:

- (1) Nicholas and Oliver; and
- (2) Mrs. Dickens

as to whether they may have any causes of action in tort and, if so, against whom.

5. Paul was the pillion passenger on Derek's motorcycle which collided with a bus owned by Sunshine Tours Inc. and driven by Trevor. Both drivers admit that they are equally to blame for the accident. Paul, who was not wearing a crash helmet, suffered concussion and required twenty stitches to a scalp wound. His major injury was a crushed leg and, despite major operations over a two-month period, his leg had to be amputated.

Paul was twenty-five years old at the time of the accident and the leading goal scorer for an amateur football team. He had been employed as a mason earning a basic \$3,000 per month. For the six months prior to the accident, his employers were carrying out a major contract to build an office block and each mason had been able to earn an average of \$250 per week overtime in addition to his regular pay. The building was to be completed in seven months' time.

Paul was hospitalized for one year, during which time his employers made a payment of 50 percent of basic salary, as stipulated in Paul's contract of employment. At the end of the period, all payments ceased, but the employers offered Paul a desk job at a salary of \$1,500 per month. After six months' convalescence, Paul took up the offer. During his convalescence, Mandy, Paul's wife, gave up her job as a dentist's receptionist earning \$2,500 per month in order to look after Paul. Paul also received \$20,000 from an insurance policy, arranged through his football club, which was payable for the loss of either leg.

Advise Paul as to his legal rights and explain how the court will approach the problem of assessing damages.

P.T.O.

6. Antillean Ltd. is in serious financial difficulties and, at a board meeting, the financial director, Jackman, announces to the other board members that if it were not for gross incompetence and mismanagement on the part of the company's chairman, Oswald Hinds, the company would be on a sound financial footing. Jackman, who harbours a grudge because he was not appointed chairman several years ago in preference to Hinds, sends a letter to the *Daily Echo* newspaper repeating these allegations. The letter is published in the newspaper a few days later.

Shortly afterwards, the Carib Television Company, a privately owned organization, broadcasts a documentary film highlighting the financial problems of Antillean Ltd. and referring to "the rum-soaked cavorting of Oswald Hinds aboard his yacht, 'Serendipity'." The report is true of another Oswald Hinds, who is not the chairman of the Antillean Ltd., but is untrue of the chairman, who is a deacon of the Adventist Church and a life-long abstainer from alcohol.

Advise chairman Hinds as to whether he may have a good cause of action in defamation and, if so, against whom.

END OF PAPER