Summer Examinations 2016

LAW101516N

Module Title: Business and Company Law
Level: Four
Time Allowed: Two hours

Instructions to students:

- Enter your student number not your name on all answer books.
- Answer three out of six questions.
- All questions are equally weighted.

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<table>
<thead>
<tr>
<th>No. of Pages</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of Questions</td>
<td>6</td>
</tr>
</tbody>
</table>
Answer three out of six questions.

1. In relation to the law of contract, distinguish between and explain the effect of:

   a. A term and a mere representation;

   b. Express and implied terms, paying particular regard to the circumstances under which terms may be implied in contracts.

2. Omar, a computer sales rep, bought a ticket to travel to London from Sunshine Coaches, who he sometimes used. On the front of the ticket in red letters it stated, ‘This ticket is issued subject to conditions’ and on the back of the ticket in bold letters it stated, ‘The company’s conditions are available in the company’s timetables and notices’. Omar did not bother to read his ticket. The conditions contained the following clause, ‘No guarantee is given by Sunshine Coaches that passengers will be taken to their destination and the company cannot accept liability for loss of passengers belongings, howsoever caused.’

   The driver was applying her lipstick in the rear view mirror and not paying attention to the road ahead. As a result the coach crashed. Omar was told that he had to make his own way to London, which was a further 50 miles away and many of the sales products he had been carrying were damaged.

   Advise Omar of any claims he may make in respect of his damaged belongings and having to travel the remaining distance himself.

3. Alan owned a pub the ‘Red Bull’. He appointed Bill as the manager and told him not to buy any crisps from travelling sales persons as Alan could buy them cheaply from a friend in that business.

   A few weeks after starting work Bill bought 50 boxes of crisps from Cyd who called at the pub. Alan has refused to pay for the crisps.

   Bill has been buying bottles of lemonade from his wife to sell in the pub. Alan found out about this.

   Alan wanted to purchase another pub and asked Dan, a surveyor, to carry out a survey on the pub. Dan was very busy and asked Eddie, another surveyor whom he knew, to carry out the survey. After being given the survey report Alan bought the new pub but later discovered that it was worth much less than he paid for it, because it had some structural defects which were not mentioned in the survey.
Advise Alan of his legal position as regards:

a. the crisps  
b. the lemonade  
c. his new pub.

4. To establish negligence the claimant must prove:

a. that the defendant owes a duty of care to the claimant  
b. the defendant has breached that duty  
c. that the breach caused harm to the claimant.

Explain what is meant by these three stages in more detail. Use cases to illustrate your answer.

5. Gina wishes to set up a new internet café as a private limited company. You are asked to advise Gina on:

a. the regulations concerning the name;  
b. the contents of the ‘Articles of Association’ of the company; and  
c. the types of resolutions which may be passed at company meetings.

6. Charlie owned a chocolate factory. He has come to you with the following problems concerning his employees:

a. Dave worked on a machine which mixes the chocolate. The machine had a guard on it but Dave would sometimes remove this because he could work faster. On one occasion he caught his finger in the machine and his finger was amputated.

b. Eddie had worked for Charlie since last July. A few days ago Charlie decided to dismiss Eddie telling him to go home and he did not want to see him again.

c. Fran was a cleaner at the factory. One day Fran’s boss asked her to clean the ladies toilets at the factory. Fran replied ‘clean them yourself!’

Advise Charlie of his legal position in the above circumstances.

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