Summer Examinations 2016

LAW200916N

Module Title: Law of Tort
Level: Five
Time Allowed: Two hours

Instructions to students:

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

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Answer three out of eight questions.

1. Amira had a row with her husband Boris, who punched her in the face. He then said that he was going to the pub to get drunk and when he came back he would beat her up. Boris then left the house. Amira was so frightened by his threats she dialled ‘999’ and was put through to Northshire police station. She had telephoned the police on a number of previous occasions after Boris had assaulted her. The telephone operator told her that he would send police officers to the house. The operator told police constables Carl and Deb about the incident and they set off immediately.

As Carl was speeding to the house he lost control of the police car which crashed into a road sign. The police car was badly damaged and the sign was knocked over and hit Emma, a pedestrian, breaking her right leg. Carl stayed to help Emma and called an ambulance.

Fred, a well-known local criminal, was walking past the scene of the accident and he climbed into the police car to pull out the police radio but in doing so he was badly cut on broken glass from the windscreen.

Meanwhile Deb ran to Amira’s address which was a mile from the scene of the crash. When she arrived at the house she found that Boris had come back and beaten up Amira.

Two months after the accident Emma had started walking without a stick. She decided to go walking in the hills in the Lake District and was climbing a steep hill when her right leg gave way and she fell hitting her head. As a result she suffered brain damage.

Advise Amira, Emma and Fred of the claims they may make, if any, in negligence.

2. Explain the factors which the law uses to determine whether a defendant has breached the required standard of care in negligence and critically assess the exceptions the law makes to that standard.

3. Gail is single and a sociology lecturer at the University of Wessex. She was fed up paying rent and found a little cottage which she wanted to buy. She applied to the Apollo Building Society for a mortgage and they instructed Hari, a surveyor, to carry out a survey. Hari surveyed the cottage and sent his report, stating that the cottage was in good condition, to the Apollo Building Society. The Apollo Building Society emailed a copy of the report to Gail but advised her to have her own survey on the cottage. After reading the report Gail bought the cottage. A few months after moving in Gail discovered that all the wooden beams had woodworm.
and it will cost £10,000 to remedy the problem. Hari had failed to notice the woodworm.

Gail wanted to buy a second hand car but as she knew nothing about cars she asked her neighbour, Ivy, who works as a secretary in a local garage to find a good car for her. Ivy found a car which was only three years old and had been re-sprayed and Gail paid the owner £5,000 for it. A few weeks later Gail discovered that the car had been in an accident and was unroadworthy.

Gail did not wish to have any children. She went to the Jay private clinic for a sterilisation operation. The operation was carried out successfully and Gail was told that she no longer needed to use contraception. Twelve months after the sterilisation operation Gail found that she was pregnant after having sex with a work colleague and she later gave birth to a baby.

Advise Gail of any claims she may make for negligent mis-statements in respect of the survey, the car and her baby.

4. ‘No wrong is done to someone who consents’.

Discuss.

5. Kamal is a driver for Lockup, a security company, and his main work is transporting prisoners.

One day he is transporting some prisoners to prison when he realises that he had agreed to take his son to the doctors. He immediately drives miles off route to pick up his son. On the way he is driving carelessly and knocks Lucy off her bicycle breaking her arm.

A few days later Kamal is escorting a prisoner up a flight of stairs in Wessex Prison. Mick, another prisoner, who is at the top of the stairs, accidentally drops a heavy metal bucket he is carrying which hits Kamal on the head and injures him.

The following week, Lockup lend Kamal to CashRUs who deliver cash to banks. Kamal is still paid by Lockup and uses one of their vans for deliveries but he is given instructions on his daily responsibilities by CashRUs. While delivering cash to a bank Kamal has an argument with Neil, a bank employee, who refused to sign for a delivery and Kamal punches him in the face.

Advise Lucy, Kamal and Neil of any claims they may make in negligence.
6. Olly’s hobby is making remote controlled drones. He tests the drones by flying them in his back garden. He started selling the drones and obtained planning permission from the council to operate a business from his garden shed.

Pam owns the house next door, where she lives with her baby daughter, Rose. Olly often flies or tests the drones all day and in the summer months sometimes works until midnight. The high pitched whine of the drones disturbs Rose’s afternoon naps in the garden and sometimes after Pam has gone to bed at night she is woken by the noise of the drones.

Syed lives in the house on the other side of Olly’s house. Syed complains to Olly about the noise of the drones but Olly simply ignores him. The next day when Olly starts flying a drone Syed goes into his garden and randomly fires his shotgun into the air which annoys Olly. Some of the pellets damage an oil tank in Olly’s back garden, and the oil leaks into the ground and poisons the water in Syed’s garden pond killing his fish.

On a number of occasions Olly has lost control of drones which have flown over the houses and gardens in the street and a number of residents complain about this. On one occasion a drone crashes into a new sports car, owned by Tina, which is parked in the street causing substantial damage to the paintwork.

Advise Pam, Rose, Syed, Olly, Tina and the residents of any claims they may make in tort.

7. Una owns Downtown Abbey a stately home set in one hundred acres and surrounded by a high brick wall. She decides to open the house and grounds to the public who pay an entrance fee. Una engaged Vic, a local tradesman, to install a pond with a fountain in the middle, outside the main door of the house. Una put a notice by the fountain, ‘Danger – Keep Out of the Water’.

Wendy took her daughter Zara, aged 5, to the house for a half-term treat. While Wendy was admiring the views over the grounds Zara climbed into the pond. Zara suffered an electric shock due to the wiring for the fountain being faulty.

Wendy and Zara then looked round the house. Wendy went to look for a toilet. She opened a door marked ‘Private’ and fell down a steep flight of stairs into a cellar and broke her ankle.

Alan, aged 16, attends a school next to Downtown Abbey. Una had previously complained to the school about pupils trespassing in the grounds. Alan climbed over the high brick wall into the grounds and went into some old crumbling stables which had been roped off. As he was looking round the stables part of the roof collapsed and Alan was injured.

Advise Zara, Wendy and Alan of any claims they may make under the Occupiers’ Liability Acts.