



**EXAMINATIONS OF JULY/AUGUST 2005**

**CODE AND NAME OF COURSE: LA13A (LAW1310) - LAW OF TORTS I**

**DATE AND TIME:**

**DURATION: 2 HOURS**

**INSTRUCTIONS TO CANDIDATES: This paper has 2 pages and 6 questions.**

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Answer **THREE** (3) questions. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

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1. Critically analyse the process of determining whether or not a duty of care exists.
2. Discuss the concept of "unreasonable user" in nuisance.
3. "There is no liability for intentionally confining another unless the person physically restrained knows of the confinement or is harmed thereby ..."

Critically examine this **proposition**.

4. Alex has been **drinking** in a rum shop. As he is **unable** to drive, he **phones Brian, his 16 year old son, to come and pick him up**. Brian **does** not have a **driving** licence but has **had** a few lessons on private road. On the way home Brian skids and crashes into a shed injuring his father, Alex, who is not wearing a seat belt. The shed contains the electricity meter for a nearby house. The meter is destroyed and the power is cut. Coral (the owner of the house and shed) relies upon electricity to work a machine to help her breathe and suffers a deterioration in her condition. Donna, a guest in the house, falls downstairs in the dark and breaks her neck.

Advise the parties.

**PLEASE TURN OVER**

5. Lovelorn works for Soonamie as a handyman and occasionally as a driver of her car. Lovelorn has a crush on Soonamie but has never dared to reveal his feelings for fear of losing his job.

**In January Soonamie returns to the island from a Conference in Chicago. On the way home from the airport, the vehicle runs out of gas and, to Soonamie's surprise, Lovelorn prevents her from exiting the vehicle. He then attempts to hug and kiss her while declaring his undying love. Soonamie pushes him off, deliberately scratches his face with her long finger nails, gets out of the car and runs away. Exhausted, she collapses on the ground but is able to call the police station and to make a report. On their way to find Soonamie, two police officers, Sargeant Quick and Constable Rush, discover Soonamie's abandoned car with Scapegoat, a dreadlocked man, sound asleep in it. Without asking any questions, the police officers drag Scapegoat out of the car, handcuff him and leave him in the car. Sargeant Rush says to Scapegoat, "Now you know how she feels".**

**An hour later, they return with Soonamie, who exclaims "But that isn't Lovelorn, it is someone else". The police officers remove the handcuffs, apologise to Scapegoat, and offer to take him home.**

**Subsequently, Soonamie receives a series of "anonymous" telephone calls. The caller says nothing, but breathes heavily into the phone. She believes it is Lovelorn. Soonamie begins to suffer from anxiety, palpitations and sleeplessness and is deathly afraid to leave the house.**

**Advise the parties.**

6. **Ria and Shuana are neighbours. Shuana collects old farm machinery, which she stores in a yard at the back of her house. One day, Ria and her son Tim, aged 6, go to Shuana's house to give Shuana a letter, which had been delivered to Ria's house by mistake. Since no one came to the door, Ria and Tim wander round to the back yard, where Tim climbs onto an old tractor and cuts his hand on a jagged piece of metal. At the entrance to Shuana's property is a notice which states: "Dangerous Machinery. Do not bring any children onto this property."**

**Shuana has a large tank of farm manure on her land. Over the years the tank has rusted, but this could only have been discovered by a thorough professional inspection. The tank bursts and the manure spreads onto Ria's land causing damage to her lawn and a nasty smell. Ria's son, Tim, contracts a disease from the manure.**

**Advise Ria and Tim.**

**END OF PAPER**