



# THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF \_\_\_\_\_ JULY/AUGUST \_\_\_\_\_ 2000

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.

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Answer **THREE (3)** questions, at least **ONE** 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

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## PART A

1. Write a memorandum to the Barbago Federation of Insurers outlining the principles of tort law relating to:
  - (a) injury by dog bites; and
  - (b) damage by trespassing cattle.
  
2. Answer **BOTH (a) AND (b)**
  - (a) Distinguish between the torts of (i) Passing Off; (ii) Injurious Falsehood; and (iii) Defamation.
  - (b) To what extent is it true to say that injury to goodwill is the essence of passing off?
  
3. "The law puts an especial responsibility on the owner of a vehicle who allows it to go on the road in charge of someone else, no matter whether it is his wife, his servant, his friend, or anyone else" *per* Lord Denning M.R. in *Launchbury v. Morgans* (1971).

Discuss this statement in the light of relevant Commonwealth Caribbean case-law.

PLEASE TURN OVER

**PART B**

4. Answer **BOTH** (a) **AND** (b)

- (a) Explain the nature of a 'true innunendo' in the Law of Defamation.
- (b) The Reverend Ridge was in the Casino playing cards at a table with some friends when Foster, a waiter who was standing behind Ridge, announced in a loud voice: "I think you all should know that this man is cheating."  
Ridge was not in fact cheating, but Foster had formed this impression from seeing an extra pack of cards protruding from Ridge's pocket.

Two days later, the *Barbago Express* newspaper published an editorial, captioned 'Why We're Going to the Dogs', which attributed most of the nation's current problems to a decline in society's morals. The editorial contained the statement: "Even our clerics are not immune from the rot. There is a minister of religion who ekes out a living in the Casino by cheating at cards!"

The Reverend Ridge is now shunned by his card-playing friends, and his church congregation has dwindled considerably. Further, his bank has refused his request for an overdraft.

Advise him.

5. Victor's bakery had an unfenced machine used for rolling pastry. A warning notice was affixed to the machine - 'DANGER. In no circumstances must any employee touch the rollers or any part of this machine other than the control lever'. Each employee had been given express instructions that if anything went wrong with the machine, he should call the engineer. One day, a lump of dough became stuck in the machine and Jack, the operator, called for the engineer, but the latter had taken ill and was not at work that day. Jack then asked Brad, another employee, who was always willing to help out when problems arose, to try to remove the dough from the machine. Brad switched the machine off by raising the control level, and proceeded to try to remove the dough with his fingers. While Brad was doing this, Paul, another employee, who was known to have a drinking problem, lurched into the area and accidentally fell against the control lever, causing the machine to suddenly start up again. Brad's fingers were crushed by the moving rollers.

Jack and Paul decided to carry Brad to the security office for 'First Aid' treatment. On their way to the office Jack slipped on an oily patch on the floor and fell, dislocating his shoulder. Paul and Brad also crashed to the ground. Brad sustained no further injury but Paul, owing to his intoxicated state and because he was rather obese, suffered a heart attack and died before reaching the hospital.

Advise Brad, Jack and Paul's personal representatives.

PLEASE TURN OVER

6. Jason was travelling as a passenger in the front seat of a car when it was struck from behind by a truck. Jason, who was not wearing a seat belt, was thrown through the windscreen and he landed on the road outside. His skull was fractured and he suffered severe brain damage. After receiving treatment in hospital, he returned home, but he needs constant attention as he is unable to control his arms and legs. He is aware of his condition but he cannot communicate properly. His expectation of life has been reduced to ten years. Jason's wife, Laura, has given up her job as a receptionist to look after him. At the time of the accident Jason, then aged 35, was an assistant manager in Henry's business, earning \$30,000 a year. Henry, who thought highly of Jason's ability, had told Jason just before the accident that he would be promoted to department manager (at a salary of \$45,000) when the present holder of the position retired in a year's time. Jason received 12 weeks' sick pay from Henry and \$20,000 under an accident insurance policy. The truck driver has admitted negligence.

Discuss the principles on which Jason's damages will be assessed.

**END OF PAPER**