

THIS PAPER IS NOT TO BE REMOVED FROM THE EXAMINATION HALLS

**UNIVERSITY OF LONDON**

**266 0001 FE**

**LLB EXAMINATION**  
for External Students

PART I EXAMINATION (Scheme A)  
SECOND AND THIRD YEAR EXAMINATIONS (Scheme B)  
GRADUATE ENTRY LEVEL II (Route A)  
GRADUATE ENTRY SECOND AND THIRD YEAR (Route B)

**Law of Tort**

Friday 2 June 2006: 10.00 – 1.00 pm

Candidates should answer **FOUR** of the following **EIGHT** questions.

PLEASE TURN OVER

1. 'Once it is appreciated that the rules laying down causal requirements are not autonomous expressions of some form of logic or judicial instinct, but creatures of the law, it is possible to explain their content on the grounds of fairness and justice in exactly the same way as the other conditions of liability.' (*Fairchild v Glenhaven Funeral Services Ltd*, per Lord Hoffmann).

Discuss.

2. Chris owns and operates a small plastics factory. He was having problems with frequent breakdowns, suggesting a fault on the electrical circuit. He asked Dale, his daughter's then boyfriend, who was an apprentice electrician, to take a look at it. Dale said that part of the system needed rewiring, but it was an easy job and he could do it. Chris agreed and Dale did the work. Two weeks later a fire broke out in the new electrical wiring, and the local fire brigade were called. Evan, an employee of the plastics factory, and Fred, one of the firemen, were overcome by fumes from burning plastic and suffered permanent damage to their lungs. The other firemen left, after concluding that they had extinguished the blaze. Some debris was, however, still smouldering and the fire flared up again during the night, burning down the factory. Electrical experts agree that the original problem was one that only a fully qualified electrician could have diagnosed and dealt with.

Discuss any issues of tort liability arising.

3. 'Once a case is identified as falling within the extended *Hedley Byrne* principle, there is no need to embark on any further inquiry whether it is 'fair, just and reasonable' to impose liability for economic loss.' (*Williams v Natural Life Health Foods Ltd*, per Lord Steyn).

Discuss.

4. Hugo and his pregnant wife, Alice, were on their way to Harwich to catch a ferry to go on holiday to Holland. Hugo was driving. They were held up by road works on their way out of London. Alice got very angry at the delay and said to Hugo: "Do you want to get to Holland? For heavens sake, put your foot down or we shall miss the boat. It's the last chance of a holiday without kids." Hugo therefore increased his speed. He approached a blind corner at about 10 mph faster than the permitted speed limit. Approaching him he saw a car on his side of the road, overtaking another vehicle. Hugo panicked and veered off the road into a tree. He was not injured, but Alice suffered physical injuries. Two weeks later she gave birth prematurely to Beatrice, who has severe physical and mental disabilities as a result of injuries suffered in the accident. Beatrice is likely to need the help of a permanent live-in carer throughout her childhood.

Advise in respect of claims by Alice and Beatrice.

5. Hilda is aged 21 and severely mentally retarded. Upshire County Council under statutory powers arranged day care for her at the Upshire Day Care Centre. She spent the night and weekends with her mother, Ida. The council also arranged for Gareth, a council delivery driver, who lives near Hilda's home, to collect her each morning and take her home in the evening.

It has now been discovered that Gareth sometimes took her on his delivery rounds with him and would lock her into the van (sometimes for up to half an hour) while he attended to his work. Because of her disability Hilda did not understand that she was unable to leave the van and was in no way distressed by, indeed rather enjoyed, these jaunts. Staff at the Day Care Centre assumed, when she did not turn up, that she was ill or had gone somewhere with her mother. This practice came to light one day when Ida phoned the Day Care Centre to change the arrangements for that evening and discovered that Hilda had not come to the Centre that day.

Ida became hysterical and has as a result suffered a complete mental breakdown and can no longer care for Hilda, who has had to be placed in an institution.

Advise in respect of claims by Hilda and Ida.

6. Joseph runs a small business selling car parts and accessories. He has recently, with planning permission, adapted the rear of the premises to provide a drive-in facility for washing cars. This opens each weekday at 7.00 a.m. In the adjoining premises Helga has for many years organised early morning meditation and yoga sessions for business men and women to attend before starting the morning's work, and complains that this is badly affected by the noise from the car-wash. In addition the queue of cars waiting in line for the car-wash sometimes make access difficult to other premises in the street. The car-wash has become a target for environmental protestors. Some of them climbed in during the night and blocked the water supply to the washing machines and opened the safety valves on the water tanks and detergent supplies. These seeped into Igor's cafe next door. The detergent has left an unpleasant smell in Igor's café, which is unlikely to dissipate for months and this is likely to have an adverse effect on his business.

Advise Helga and Ivor.

7. Nerd is the IT support officer in one of the departments of Toytown University. One day he placed a link on the department website on the University's intranet, available only to staff and students. This link contains a light-hearted article about "a frolicsome professor in the Science Faculty whose name and morals are more suggestive of the farmyard than the campus" and encouraged female students to enrol for his optional courses. At the foot of the article there are several animated cartoon drawings of sheep. Nerd intended the article to be about Professor Ram. Professor Ram has had affairs with a number of female students, but none has ever been a student in his own department. Nerd was not aware that there was also a Dr Lamb in the Science Faculty. Some visitors to the website think that the article refers to him and are very surprised, as they believe (correctly) that Dr Lamb has been faithful to his wife throughout their marriage. A number of people draw the attention of the University registrar to the link, but it is not removed for a week until the head of IT services returns from holiday.

Advise Professor Ram and Dr Lamb.

8. In a branch of Migraines, a chain of pharmacies, Sally bought a bottle of "Migraines' Own Headache Tablets". The label on the bottle said, among other things: "Warning. In rare cases may cause nausea or vomiting. Not suitable for children under THREE years of age." Two days before his third birthday, Sally's son, Tom, complained of a terrible headache. Sally gave him one of the headache tablets. Tom suffered severe sickness and diarrhoea and had to be hospitalised for three days. He was so frightened by the experience that he now refuses to take any other form of medication. In particular he absolutely refuses to take the medicine he was prescribed to help control his attention deficit hyperactivity disorder (ADHD). A month later he became extremely agitated and, before Sally could intervene, struck his baby brother Ben, breaking his arm. The medical experts are all agreed that the sickness was probably caused by the headache pills and not by any reaction with the ADHD medication.

Advise Sally.

END OF PAPER