

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY, HUGH WOODING AND
EUGENE DUPUCH LAW SCHOOLS

ENTRANCE EXAMINATION

WEDNESDAY, JULY 3, 2013

Law of Contract

Criminal Law

Real Property

Law of Tort

Law of Equity

Instructions to Students:

- (a) Time: 3 Hours
- (b) Answer **ONE** question from each subject area
- (c) **EACH QUESTION MUST BE ANSWERED ON A SEPARATE ANSWER BOOKLET.**
- (d) It is not necessary to transcribe the questions you attempt.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

LAW OF CONTRACT

Question 1

'The existence of contractual obligations is based more on whether the words and actions of the parties appear to indicate agreement rather than on whether there was an agreement in fact.' Critically discuss this statement in light of the application by the courts of the rules of offer and acceptance.

Question 2

Three friends, Sarah, Ruth and Abigail, who all work at the same place decided to enter a newspaper competition. They submitted their entries together on one form and shared the cost of the entrance fee. As they submitted their entries they chatted jokingly about their entries and discussed sharing their winnings among themselves if any one of them won the competition.

Two months later, Sarah won the sum of \$50,000 from the competition. Ruth and Abigail want Sarah to share the sum and claim that there was an agreement between them to share the winnings, if any one of them won. However, Sarah is refusing to share the winnings. Sarah seeks your advice as to whether she is legally bound to share the \$50,000 with Ruth and Abigail.

Advise Sarah.

CRIMINAL LAW

Question 3

Explain using relevant authorities the following defences :

- a. Insanity
- b. Mistake
- c. Duress
- d. Automatism

Question 4

- (a) Henry intended to kill his wife, Mary. He gave her a poisonous drink which she drank. Mary was found dead with the empty glass. The forensic analyst found traces of poison in her blood. The medical evidence showed that Mary died from heart failure. The poison did not cause the heart failure. The poison did not kill Mary. Discuss the criminal responsibility of Henry.
- (b) A school teacher, Jane, took her class to the beach. All the children are around 11 years old. Jane, whilst enjoying the cool Caribbean breeze, fell asleep. One of the children, Sonny, began struggling in the water. The other children woke up Jane, but she shrugged her shoulders and went back to sleep. Sonny drowned. Discuss the criminal responsibility of Jane.
- (c) Sarah was raped by Kevin. Kevin was acquitted by the jury. Several years later, on her way home from a party, Sarah lost control of her car and crashed into a pedestrian. She got out of her car and recognised that the pedestrian was Kevin. Thinking that Kevin was dead, Sarah remarked, "I am glad it was you. I want to kill you long time for what you did to me." Sarah got back into her car

and drove off. Kevin died 30 days later from the injuries sustained in the car accident with Sarah. Discuss the criminal responsibility of Sarah.

REAL PROPERTY

Question 5

State the essential requirements of an easement and explain the significance of each of the requirements.

Question 6

In May this year (2013) Sam purchased 1 King Street from Mary. The property consists of a shop downstairs and residential apartment upstairs.

When Sam purchased the property the apartment was occupied by Laura under an agreement signed by Mary and Laura headed "Residential Licence".

Under this agreement Laura was permitted to occupy the apartment for five years for a payment of \$10,000 per month. The agreement also stated that it was not intended to create a lease and provided that Laura could be required to leave the apartment at any time and move to other premises owned by Mary.

The agreement further provided that Mary agreed to do all of Laura's laundry and retained a key so that she could enter the apartment to collect and return the laundry.

At the date of the sale of the property to Sam, Laura was overseas visiting friends.

Sam now wishes to evict Laura so that he can move into the apartment. Advise Sam whether he can do so.

LAW OF TORT

Question 7

One morning in early February 2013, Denise left home at about 5:00 a.m. to go jogging. It was dark and the area was not particularly well lit, although there was a full moon which gave some additional light. Denise was wearing black pants and a black T-shirt. There was no pavement and so she ran along the side of the road on the right, facing the oncoming traffic. A large SUV was coming up the road on her side and at the same time a bus was travelling along the road in the opposite direction. There was a deep pothole in the middle of the road which left both drivers needing to cling to their side in order to pass each other and avoid the pothole. It was not until he was practically upon her that the driver of the oncoming SUV spotted Denise. She was, by this time, trying to flatten herself against the rock wall that ran along her side of the road but she was nonetheless hit by the car and sustained serious injuries.

Denise's mother was informed of the accident about an hour after it happened and went immediately to the hospital to see her. Denise was unconscious and in intensive care. She had suffered severe head injuries which were very visible and there seemed to be tubes and wires coming from every part of her body. Denise's mother was so shocked by what she saw that she was unable to sleep or eat much for several days with the result that she could not operate her small business. Denise's mother also fell into a deep depression for which she has had to seek medical intervention at great cost.

Advise Denise and her mother on their likely success in pursuing claims in tort.

Question 8

By reference to decided cases, critically discuss the scope of the rule in **Rylands v. Fletcher** as a basis for tortious liability.

LAW OF EQUITY

Question 9

The Anton Pillar order has been variously described as “a draconian power which should be used only in very exceptional cases” and as “an innovation which has proved its worth time and time again”. Explain both descriptions and illustrate your analysis with reference to decided cases.

Question 10

Ms. Olivia Spratt, a Dressmaker and boutique operator and Donald Sang met in 1991. Mr. Sang was a used car dealer salesman. In 1992 Ms. Spratt bought a one bedroom apartment at No. 6 Quick Close. She had it registered in her name as sole proprietor. Mr. Sang moved into the apartment to live with Ms. Spratt. In 1993 their first child Emilia was born. The next year Ms. Spratt sold the apartment and bought a two bedroom apartment at 26 Round Tree Avenue. This time the property was registered in their joint names. Ms. Spratt had used the proceeds from the sale of the one bedroom apartment to pay the deposit. The balance of the purchase price was by means of a mortgage in the joint names of Ms. Spratt and Mr. Sang. Ms. Spratt paid

the mortgage and the other household bills. Mr. Sang made weekly payments towards household expenses and the maintenance of Emilia.

In 1995 they decided to improve the apartment by adding an extension. Ms. Spratt sought and obtained permissions and paid the necessary fees. They jointly obtained a bank loan to finance the extension. Mr. Sang, who was quite a handyman, did some of the labouring work and paid friends and family members to assist. The extension was completed quite expeditiously. Ms. Spratt and Mr. Sang continued to dwell in the extended apartment sharing household expenses until two years later when Mr. Sang moved out. By this time Ms. Spratt had given birth to twin boys Allan and Allen. Ms. Spratt remained in the apartment. She continued to meet household expenses and payments towards its acquisition not to mention that she single-handedly maintained the three children. In the meantime Mr. Sang had acquired a house for himself.

In January 2013 Mr. Sang contacted Ms. Spratt and notified her of his desire to have the apartment valued and divided equally between them. He asked her to expect formal correspondence from his lawyers.

Ms. Spratt consults you and requests that you advise her whether Mr. Sang can maintain his claim for a half share of the property and the reasons for your advice.

Advise Ms. Spratt.

END OF PAPER