



جامعة السلطان الشريف علي الإسلامية  
UNIVERSITI ISLAM SULTAN SHARIF ALI  
SULTAN SHARIF ALI ISLAMIC UNIVERSITY

**Faculty of Shariah and Law**  
**Semester II, 2016/2017 Academic Session**

**Final Examination Question Paper**

**Course Code : LB 2302**

**Course Name : Law of Tort II**

**Course Level : Bachelor of Laws (LL.B) & Bachelor of  
Shariah Law (BSL)**

**Time : 3 hours**

**Notes:**

1. Answer any **four** of the following questions.
2. All answers, wherever relevant, must be supported by statutory provisions and case law.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**QUESTION 1 (15 Marks)**

UNISSA Law Society had organised the International Humanitarian Law Moot Competition in conjunction with the University's 10<sup>th</sup> Anniversary Celebration. During the final round, many students turned up to witness the competition. A parking lot near the Administrative Building was reserved for the invited guests from the Ministry of Education only. Abdul Razaq, a student from the Faculty of Usuluddin wanted to enter the restricted area and pass along the parking lot to go to the library but was prevented from doing so by the security guard. Abdul Razaq was told that he may turn back and use another way to reach the library. Abdul Razaq refused to do so and remained near the parking area for half an hour. After half an hour, he kept insisting the guard to let him pass the area but the guard still refused to let him enter the area. As he became very angry, he took a stick and hit the security guard. Shocked with Abdul Razaq's action, the security guard hit Abdul Razaq's head using the gun that he was carrying. Abdul Razaq wishes to take legal action against the security guard on the issue of trespass to person.

Advise Abdul Razaq.

**QUESTION 2 (15 Marks)**

"Entry to another's land without permission is never justifiable and is always actionable per se". (As per John Cooke, Law of Tort, 9<sup>th</sup> ed. (England: Pearson Education Ltd, 2009), p. 319)

Discuss the above statement in relation to the tort of trespass to land.

**QUESTION 3 (15 Marks)**

- (a) Hamdan sent his car for repair at the Gadong Auto Parts and Services. He explained to the mechanic on duty that apart from repairing the car, the mechanic should also do the alignment and balancing of the car tyres as he plans to travel to Miri the following day. Hamdan informed the mechanic that he will come to the workshop at 2.30pm to collect his car. As it was a busy day at the workshop, Rashid walked in and took the car under a mistaken belief that the car was his. One week later, Rashid returned the car to the workshop after discovering that it was not his car.

Advise Hamdan.

(6 marks)

- (b) One day, while Rahim was jogging at the Tasek Lama Recreational Park, he found a gold bracelet on the ground and handed it over to the park authority, with a note of his own name, telephone number and address. He also stated in the note that he intends to claim it, if the owner did not come forward. Three months later, he approached the management of the Tasek Lama Recreational Park to claim for his rights (i.e. the gold bracelet) but was ignored.

Advise Rahim. Would your answer be different if Rahim found the gold bracelet while he was digging a hole at the park?

(9 marks)

**QUESTION 4 (15 Marks)**

At the entrance to his country estate and leisure park, Tan Sri Abu Samad had posted notices saying that no liability was accepted towards visitors. An identical clause was also printed on the tickets. Mat Salleh and his children, Omar aged 8, and Muhammad aged 6, paid to enter the park. Mat Salleh was injured when an unsafe deck chair he was sitting on collapsed. He suffered a broken wrist and his watch was broken. Omar was injured when he fell off an unsupervised roundabout which he was misusing. Muhammad was injured when he wandered into the private part of the park and fell into an unguarded hole. Danish, who had slipped past the gate without paying, was injured when the boat in which he was paddling on the lake sank because of rotten planks. Sabrina, while using a public footpath on the estate, was injured by inadvertently touching an electrified fence intended to keep cattle away.

Advise Mat Salleh, Omar, Muhammad, Danish and Sabrina as to possible actions in tort that they could bring against Tan Sri Abu Samad.

(15 marks)

**QUESTION 5 (15 Marks)**

(a) Explain **five** differences between private nuisance and public nuisance. Support your answer with examples.

(10 marks)

(b) Explain how the defences of prescription and statutory authority operate in the context of private nuisance. Support your answer with case law.

(5 marks)

**QUESTION 6 (15 Marks)**

- (a) Explain **three** requirements that must be satisfied in order to impose the tort of vicarious liability. Support your answer with relevant case law.  
(7.5 marks)
- (b) Discuss **three** tests used in determining the existence of a contract of service in establishing vicarious liability. Support your answer with relevant case law.  
(7.5 marks)

التوفيق والنجاح