



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

Faculty of Shariah and Law  
Semester I, 2020/2021 Academic Session

Final Examination  
Question Paper

Course Code : LB2301  
Course Name : Law of Tort I  
Course Level : Bachelor's Degree  
Time : 3 hours

**Instructions:**

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

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### **QUESTION 1 (15 Marks)**

Following months of planning and organisation, the legendary guitar band, The Battles, are about to embark on a reunion tour of the UK. They are performing a warm-up gig at a small intimate venue when a spotlight falls onto the stage causing a massive explosion killing the band members: Emma, Bill and David. Unfortunately, the lighting rig (onto which the spotlight was fitted) had been negligently maintained by Soho Lighting Company. The sight is particularly gruesome and horrific.

#### **Mary**

Mary, Bill's wife, is watching the gig from the VIP area of the venue. She is physically unharmed, but later suffers nightmares and depression. This is particularly traumatic for her as she had previously suffered from depression but had sought help and recovered.

#### **Peter**

Peter, Emma's brother, is listening to the live radio broadcast of the gig from his hotel room in Paris. He hears the explosion and thinks he can hear Emma screaming. He rushes to the airport, managing to catch a flight that is just leaving, and arrives at the hospital three hours after the accident. Unfortunately, Emma's body has not yet been moved to the morgue and is still covered in blood and grime from the explosion. He develops post-traumatic shock disorder.

#### **Nora**

Nora has attended every The Battles gig in the UK and has travelled to a number of their overseas concerts. She is a founder member of their fan club and regularly contributes to their fan magazine. She always tries to stand as close as possible to the stage. Miraculously she was not hurt by the explosion but has since been overcome with grief.

#### **Tim**

Tim was one of the first on the scene. He is a trainee ambulance man and this was his first major incident. He rushes to the stage but quickly sees that there is little he can do. He spends the next two hours comforting distraught fans. He later suffers from recurring nightmares and panic attacks.

Advice the various parties as to the potential claims they can make.

**QUESTION 2 (15 Marks)**

Two years ago Ali Baba Company, opened a treatment plant as part of their real leather clothing business in Miracle Village. The treatment plant was opened on land that adjoined land owned by Meragang Water Plc. Ali Baba Company's arrival led to a significant number of jobs being created in the area, as well as causing an upturn in the local economy through the extra employment.

However, the company's arrival also caused a lot of controversy with numerous animal rights protests staged in the town. In order to try and get the treatment plant closed down, Kamilah, a leading protester who had been evicted from Ali Baba Company's premises numerous times having broken in to the grounds, did so again and tampered with some of the plant's safety valves.

Consequently, some chemicals escaped by seeping through some very small cracks in the floor of the plant and ultimately entered Meragang Water's reservoir polluting their reserves of water.

Advise Ali Baba Company on their potential liability for the damage under the rule in *Rylands v Fletcher*.

**QUESTION 3 (15 Marks)**

The House of Lords in *Fairchild v Glenhaven Funeral Services Ltd* [2002] held that, following *McGhee v National Coal Board* [1973], the appropriate test was whether the defendant had materially increased the risk of harm toward the plaintiff. However, in *Barker v Corus (UK) plc* [2006], the House of Lords reconsidered its ruling in the earlier landmark case *Fairchild v Glenhaven Funeral Services Ltd* concerning the liability of multiple tortfeasors.

Discuss.

**QUESTION 4 (15 Marks)**

Ah Mei, an accountant, is returning home from her office when she bumps into an old friend, Cindy, in the supermarket. During their conversation, Cindy tells Ah Mei that she has just inherited a large sum of money and is looking for an investment opportunity. Ah Mei mentions that one her clients, Rich & Lucky Ltd is looking for financial backing and might make a good investment for Cindy. Ah Mei remembers that she has a copy of Rich & Lucky's accounts in her bag and gives them to Cindy. After looking at these accounts, Cindy invests

\$20,000 into Rich & Lucky Ltd, but loses everything when Rich & Lucky goes into liquidation four months later. In fact, Ah Mei has prepared the accounts negligently and they were not an accurate reflection of Rich & Lucky's unstable finances.

Advise Cindy.

### **QUESTION 5 (15 Marks)**

“Where there is only a single operative cause for the loss and damage suffered by the claimant, it is a relatively simple matter to determine whether that cause was a breach of the duty of care owed to the claimant by the defendant. But where the sequence of events leading to the loss and damage comprises more than one cause, the process of separating and attributing potential or actual liability is more complicated.”

Discuss and evaluate the above principles with the support of various case laws on *Actus Novus Interveniens*.

### **QUESTION 6 (15 Marks)**

Evaluate and analyse the doctrine on *Re Ipsa Loquitor* with the support of various case laws on the matter.

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