



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

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

Final Examination Question Paper

Course Code : LB2302
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 (4)** out of the following questions.
2. All answers must be supported by statutory provisions (if any) and case law.

QUESTION 1 (15 Marks)

Haris, Majid, Mariam and Ani are sitting in the students' union hall room discussing the theme and related matters for the forthcoming annual law dinner event.

Tahir, Mariam's ex-boyfriend, walks by and says quietly to Haris, 'I'll get you! No one steals my girl and gets away with it'.

Although Haris is not particularly upset by this, he decides to teach Tahir a lesson. When no one is looking, he deliberately trips Tahir. Tahir falls over but is not hurt. He quickly jumps up and runs after Haris. Tahir punches Haris several times. Haris falls and hits his head.

As Mariam rushes to get a doctor, Tahir corners her and whispers, 'I miss you, let's try again'. She pushes him away.

Meanwhile Majid and Ani have sneaked into the store room. On seeing this, Tahir locks the store room door. It remains locked until Rosli, the security guard, comes on duty some time later and unlocks it.

Tahir then calls Mariam's mobile. As she is still at the hospital with Haris, she does not answer it. By the time she checks her phone she has 12 missed calls.

Later that evening, Tahir calls Irene, Haris's ex-girlfriend, who lives some distance away, and tells her Haris is in a coma. She takes the news very badly.

At the hospital, the surgeon who is caring for Haris suggests to Haris's brother, Mohamad, that it would be convenient for her colleague to remove a skin blemish from Haris's arm whilst she (the surgeon) is operating on Haris's head injury. Mohamad agrees to this despite knowing that Haris had consistently refused to undergo any treatment for the blemish.

Advise the various parties as to whether they have any claims in the trespass to the person torts.

QUESTION 2 (15 Marks)

Compare and examine the types of damages that can be claimed in cases of personal injuries and fatal injuries.

QUESTION 3 (15 Marks)

(a) The tort of trespass to land may be defined as direct and unreasonable or unjustified interference with another's possession of land. Examine the elements required in law for a successful action relating to trespass to land.

(7.5 Marks)

(b) In the year 2000, Rizlan established a fast food business under the name "Ku Ayam". Over the years, the business thrived and earned a lot of profits. Recently, Zaty started the same business under the name "aKu Ayam". Ever since Zaty started her fast food business, there has been a 25% fall in the Rizlan's business sales.

Advise Rizlan on whether or not he can successfully file a tort action of passing off.

(7.5 Marks)

QUESTION 4 (15 Marks)

Mona has a huge four-acre garden which she opens to the public every weekend. She charges an admission fee, but accompanying children are exempted from payment. Mona gives part of the profit to Rumah Bahagia, a registered charity. Rumah Bahagia provides stewards and generally assists Mona in the maintenance of the garden. At the entrance to the garden, there is a sign which states:

"Garden can be a dangerous place. Please exercise caution."

Nancy and Mei Ling, together with their daughters Mary (Nancy's daughter), aged 17 and Valerie (Mei Ling's daughter), aged 6, visited the garden. As Mei Ling was looking around, Valerie wandered off and was attracted by a bush which had bright red berries. In front of the bush, there was a low wire fence and a notice indicating that the berries were poisonous. Valerie picked and ate several berries and was taken ill.

Mary wandered into the private part of the garden and fell into an unguarded hole.

Meanwhile, Nancy had seen an interesting plant in the pond. Taking off her shoes, she waded into the pond in order to inspect it. She slipped on some slime and nearly drowned.

While Mei Ling was walking around, a tree branch hanging over her path fell on her head and she suffered injuries. This tree branch has been left carelessly suspended for several months.

Rayyan, aged 12, crawled into the garden through a gap in the fence. He intended to take plants from the garden to sell. He went into a disused and derelict green-house and was injured when several panes of glass fell on him.

Consider the Occupiers' Liability action to these facts.

QUESTION 5 (15 Marks)

(a) Two friends, David and Michael attended an open air music festival organized by Fresh Music Company. Michael became concerned about the whereabouts of his mobile phone. After a heated discussion with Fresh Music staff member, Michael fell over. Both David and Michael were restrained and removed from the festival ground by security guards. David and Michael reported the incident to the police, alleging assault by the security guards. The police took no action.

Feeling dissatisfied, David and Michael decided to send an email to, amongst others: the responsible local authority, music magazines, television and online media outlets, and journalists. The email was also tweeted. The email included an attached flyer with an image showing cuts and scars on a young woman who, the flyer stated, had attended the music festival. The text of the flyer claimed that Fresh Music did not care that their security personnel used excessive force on their customers. The email also urged recipients to contact the head of Fresh Music and encouraged the re-publishing of the email.

Advise Fresh Music company in respect of the law of defamation.

(10 Marks)

(b) Describe the types of defences available for the tort of defamation?

(5 Marks)

QUESTION 6 (15 Marks)

Explain and discuss the following:

(a) persons who can sue and be sued in private nuisance, and

(9 Marks)

(b) the defences available in nuisance.

(6 Marks)

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