Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/43**

Paper 4 Law of Tort **May/June 2015**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

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READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen.
Do not use staples, paper clips, glue or correction fluid.

Answer **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

At the end of the examination, fasten all your work securely together.
The number of marks is given in brackets [ ] at the end of each question or part question.

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Candidates must attempt **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

Section A

1 The current approach to establishing a duty of care in negligence can restrict the liability of defendants and result in the claimant being refused compensation.

Critically analyse the impact of this approach with reference to decided cases. [25]

2 The key issue when deciding liability in the tort of private nuisance is the reasonableness of the defendant's activities.

Critically evaluate whether the current rules achieve a satisfactory balance between the rights and interests of neighbours. Support your view with decided case law. [25]

3 Explain the principle of vicarious liability and evaluate the rules used to determine the circumstances under which an employer will be held liable for the acts of an employee. [25]

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Section B

4 Simone holds a party and invites her neighbours. One of the guests, Fiona, tells Simone that she is in the final year of a degree course in art history. Simone tells Fiona that she has inherited a number of paintings. Fiona offers to examine the paintings and advise Simone as to their value. Simone asks Fiona if she will return the following day to look at the paintings and Fiona agrees to do so.

The following day Fiona returns and examines the paintings. While most are of little value she advises that one of the paintings might be worth up to £5000 at auction. Simone decides to sell the painting to a local dealer for £3500.

Subsequently Simone reads an article in the local newspaper that the painting, which was actually the work of a well-known 19th century artist, has sold for £100 000 at auction.

Assess Fiona's liability for the loss suffered by Simone. [25]

5 Tom and Jim attend a popular music festival. They stand at the front of the arena but by the time the first act performs they start to get crushed because of the numbers in attendance. Tom is taken for medical attention because he suffers serious injuries in the incident.

Jim follows Tom to the medical centre and is very distressed when he sees doctors try to revive him. In addition Tom's mother, Anne, watches live coverage of the event on the television and sees Tom being carried from the arena on a stretcher. She suffers severe shock and now suffers from clinical depression. Tom survives, but is now confined to a wheelchair.

It becomes apparent that many counterfeit tickets were sold and the organisers of the festival, ABC Ltd, did not take sufficient precautions to check that tickets were valid with the result that too many people were admitted to the event.

Advise ABC Ltd as to their liability for the injuries suffered by Tom, Jim and Anne. [25]

6 Fabien and Imran are members of a student organisation protesting against the introduction of university course fees. They decide to hold a protest at their university library, gaining access using their university identification cards. When they start to display protest signs they are asked to leave the premises by the library staff.

When Fabien and Imran refuse to leave, the security guards, Ali and Bill, are called. Ali takes Fabien firmly by the arm and begins to push him towards the door. Imran shouts at Ali that he will punch him unless he lets Fabien go. Imran raises his hand and moves towards Ali. Bill rushes over and pushes Imran to the ground. Bill stands over Imran and tells him not to move until the police arrive.

Consider the liability, in trespass, of all four parties in this scenario. [25]

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