Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/43**

Paper 4 Law of Tort **October/November 2018**

1 hour 30 minutes

No Additional Materials are required.

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READ THESE INSTRUCTIONS FIRST

An answer booklet is provided inside this question paper. You should follow the instructions on the front cover of the answer booklet. If you need additional answer paper ask the invigilator for a continuation booklet.

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

The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **3** printed pages, **1** blank page and **1** Insert.

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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 Compare and contrast the defences of *volenti non fit injuria* (consent) and contributory negligence. [25]

2 Explain and critically analyse each element of the Rule in *Rylands v Fletcher*. [25]

3 Explain and evaluate the rules governing recovery for nervous shock in negligence. [25]

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Section B

4 William has recently purchased a building for use as a restaurant. The building needs a lot of repairs before it can be used. In order to cut costs, William asks his friend, Harry, to carry out some electrical work. William is aware that Harry is not a qualified electrician and so will do the job at a lower cost. As Harry is finishing the work, he trips on an uneven floor surface and sustains a serious back injury.

Harry had made a number of basic errors when he carried out the electrical work and after the restaurant opens for business an electrical fire breaks out. A customer, Kate, and the chef, Philip, are injured.

Advise the parties as to their rights and responsibilities under occupier's liability. [25]

5 Andrew goes to the XYZ cinema to watch a movie with a group of friends. Andrew stretches his legs under the seat in front and falls asleep. At the end of the movie, Andrew is still asleep and the man in front of him stands up and folds his seat downwards onto Andrew's outstretched legs, causing a deep cut and bruising.

Andrew complains to the cinema manager, who apologises but points out that in 20 years there has not been a similar incident with the seats.

Andrew goes to the local hospital, where a doctor on duty treats his injuries and administers a drug to prevent infection. The doctor does not warn Andrew of a potential allergic reaction to the drug which occurs in a small number of cases. Andrew suffers an allergic reaction and is unable to work for six months.

Advise Andrew as to his rights and any potential remedies in this situation. [25]

6 Dimitri plays football for his college team. His team reaches the final of a national competition. During the first few minutes of the game Dimitri makes a hard but fair tackle on Ed, an opposing player. Ed suffers an injury in the tackle and cannot continue playing. As he leaves the pitch Ed threatens to break Dimitri's legs. Ed has to be held back by his teammates as he goes to kick Dimitri.

At half-time, as the teams leave the pitch, one of Ed's teammates, Frank, pushes Dimitri over from behind and kicks him while he is on the ground. Frank runs into the dressing room. A number of Dimitri's teammates stand outside the dressing room and prevent Frank from leaving until the police arrive.

Advise the parties as to their potential liability in this scenario. [25]

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