



# THE HONORABLE SOCIETY OF KING'S INNS

## ENTRANCE EXAMINATION

**AUGUST 2019**

<b>Examination:</b>	<b>Law of Torts</b>
<b>Date:</b>	<b>Monday 12 August 2019</b>
<b>Time:</b>	<b>10.00 a.m. – 1.00 p.m.</b>
<b>Internal Examiner:</b>	<b>Mr Paul Ward, UCD</b>
<b>External Examiner:</b>	<b>The Hon Mr Justice Michael McGrath</b>

### INSTRUCTIONS:

Candidates **MUST** attempt Question 1 and any other TWO questions.

Question 1 carries 50 marks. All other questions carry 25 marks each.

This paper is 6 pages long including the cover sheet. You should check that you have all the pages and inform the invigilator immediately if any are missing.

## QUESTION 1.

Over the past six years a major sporting venue in the capital has been used to host a week long rock festival running from 12 noon till 12 midnight during August. The festival is operated by Gig Ltd and the venue is operated by two sporting bodies, RU Ltd and FA Ltd, which provide the venue without charge owing to the charitable nature of the event in raising funds for the homeless. The concerts are broadcast live on television by Gig Ltd which the public can watch on a pay per view basis.

Crowds in excess of 50,000 descend upon the venue located in a residential area. Residents A have to endure the noise from the 12 hour concerts as well as the litter and other debris deposited in their gardens adjoining the streets leading to the venue. Two years ago, in protest, Residents A erected barricades to prevent the concertgoers gaining access to the venue. Gig Ltd obtained an injunction restraining Residents A from repeating the obstruction in the future.

Last year, in the weeks before the concerts a major rugby union tournament was hosted in the venue. New Zealand Player B deliberately high tackled to the head area of Irish Player C in violation of Law 10, World Rugby, Laws of the Game amounting to Dangerous Play and Misconduct. Player C was stretchered from the field and received pitch side attention. Player C seemingly passed a concussion test and went home. The following day he developed severe headaches and his local general medical practitioner, Doctor D, advised him to take pain relief which Player C duly did but to no relief. Player C phoned Doctor D when no improvement occurred and Doctor D advised him to attend the accident and emergency department of the local Hospital E. Player C attended the local accident and emergency department and having explained what had happened in the preceding days was discharged by the Senior House Officer, Doctor F, who advised him to take stronger pain relief. Later that day Player C suffered a severe brain hemorrhage and is severely brain damaged as a result. Player C is insured for injuries sustained in playing professional rugby. The €500,000 cover, however, is insufficient to meet his financial needs.

Last August, during the final act of the festival, which attracted the highest viewing audience, the stage collapsed crushing and fatally injuring concertgoer G and severely injuring concertgoer H. Concertgoer G had been in stable relationship with his partner of four years, Ms I, with whom he had a two year old son, J. Ms I was watching the concert on TV when the stage collapse occurred and witnessed the death of her partner. Ms I along with J visited concertgoer G in the hospital morgue the following day. Ms I and J have developed severe psychiatric conditions as a result of the events that occurred.

Meanwhile, outside the concert venue, pedestrian K was knocked to the ground by undercover Gardai attempting to arrest a suspected drug dealer who they believed was trying to sell illegal drugs to concertgoers. Pedestrian K suffered personal injuries as a result of the contact.

Concertgoer G was a self employed carpenter but worked part-time as a bar man being paid in cash by the bar. Concertgoer G never disclosed to the Revenue Commissioners his cash income.

Concertgoer H was rendered a quadriplegic as a result of the accident. The concert stage was erected by L Ltd on the instruction of RU Ltd and FA Ltd.

You are required to:

Advise Residents A what cause or causes of action they may take and against whom and what remedy, if any, they may recover;

Advise Player C what cause or causes of action he may take and against whom, and what damages, if any, he may recover;

Advise Ms I and J what cause or causes of action they may have, against whom and what damages they may recover

Advise Concertgoer H what cause or causes of action she may have, against whom and what damages she may recover;

Advise Pedestrian K what cause or causes of action he may have and against whom.

**[50 marks]**

## **QUESTION 2.**

Critically discuss the Statute of Limitations Act, 1957 as amended. Reference should be made to relevant case law.

**[25 marks]**

### QUESTION 3.

“Animal Farm” contains domesticated animals in a zoo and has been in business since 2009. Members of the public are invited to interact with the animals in a petting zone. There are a number of pens on the land in which different breeds of animal are kept. One pen which adjoins the main road to the local town contains donkeys and ponies. The pen is on an elevated site and the gate faces the main road with a strip of sloping land leading to the roadside. The gate to the pen is comprised of iron bars welded together and has a bolting mechanism to secure the gate to the fencing to which it is attached. The gate has a spring loaded closing mechanism. The gate was manufactured by A Ltd in 2009 in Australia. A Ltd is currently in financial difficulty. B Ltd, which has a registered company office in Dublin, is a farm supplies importer and imported the gate in 2009 and supplied it to “Animal Farm”. Last summer, motorist C was driving along the road bordering the donkey and pony pen when unexpectedly a donkey landed on the bonnet of his car causing him to collide with a wall, causing him serious personal injuries. “Animal Farm” could not understand how the donkey escaped from the pen. The locking mechanism on the gate has since been proven to be defective.

Also last summer there were separate incidents involving two Labrador Golden Retrievers. Employee D was walking a dog off the lead along the main road when the dog knocked child E from her bike. Child E suffered minor personal injuries but is undergoing psychiatric treatment for cynophobia (fear of dogs). In the other, incident a dog jumped out of the pen and collided with visitor F knocking her to ground in consequence of which she fractured her shoulder.

Two years ago “Anamal Farm” set up a rival operation to “Animal Farm” in the neighboring town. “Animal Farm” has since had a steady decrease in its income and has lost in the region of €75,000.

You are required to:

Advise “Animal Farm” on what cause or causes of action it may face from motorist C, Child E and Visitor F, and

Advise “Animal Farm” on what cause or causes of action it has in relation to the defective closing mechanism for the gate and as against “Animal Farm”.

**[25 marks]**

#### QUESTION 4.

The Department of Communications, Climate Action and Environment has overall responsibility for planning and mining operations. The planning functions are operated by local authorities throughout the country. The Department of Communications, Climate Action and Environment manages the mining operations.

Local authority A handles planning applications for residential developments which requires applicants to pay an application fee. If the application is unsuccessful the unsuccessful applicant is paid compensation. A record details the amount paid and the folio of land to which the application is made. The compensation paid is recouped by charging a fee for the amount of the compensation to the next application for planning permission in relation to that land folio. This is recorded by an official in the local authority and registered as a charge against the folio in question. When the fee is paid the charge is discharged. The fees are forwarded to The Department of Communication, Climate Action and Environment which uses the fees for the Department's budgetary needs.

Last year Land Developer B applied for and was refused permission. Compensation of €10,000 was paid by Local Authority A but official C in the local authority failed to record the details of the compensation paid. Subsequently, Land Developer D applied for planning permission in respect of the same land folio but was not charged a fee as there was no charge registered against the folio.

Also last year, Mining Developer E applied to the Department of Communications, Climate Control and Environment for a mining license to extract precious metal. The Minister granted the license without first conducting an environmental impact assessment which is statutorily required. Mining Developer E invested €100,000 in preparatory explorations in the search for precious metals. The High Court recently quashed the Minister's decision to grant the license and Mining Developer E has had to cease exploration operations. Since then the environmental impact assessment has recommended that no license should be granted.

You are required to

Advise The Department of Communications, Climate Control and Environment on what cause or causes of action it has in recouping the €10,000 that Local Authority A failed to charge.

Advise Mining Developer E on what cause of action it has to recoup the €100,000.

[25 marks]

**QUESTION 5.**

Mr A and Mr B are adjoining landowners in a rural area. Mr A operates a fur farm and sells the pelts for a profit. Mr B is a land developer and intends to sell his land in plots on which residential units will be built by private individuals.

Mr A has a sign at the entrance to the farm stating “Finest Mink Pelts for sale”. Recently Mr B launched the sale of his plots of land but has had very little interest and no sales owing to the proximity of the plots to Mr A’s farm.

Mr B asked Mr A to remove the farm sign and Mr A refused. Mr B then erected a bill board on his land adjacent to the main road stating “Illegal mink farming and animal rights’ infringement ongoing next door” (mink farming is not illegal). This action had no effect in increasing sales of the plots of land and the lack of interest in the plots continues. Recently, late at night Mr B entered Mr A’s farm and painted over the sign rendering it unreadable. Beside the sign was a delivery of feed stuff for the animals and some building materials. Mr B took these items and stored the feed stuff in a locked shed. Mr B used the building material to separate out his plots of land and the materials cannot now be dismantled. The feed stuff cost €5,000 and the building materials €10,000.

You are to advise Mr A on what causes of action are available to him and what damages he may recover.

[25 marks]

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