THE HONORABLE SOCIETY OF KINGS INNS

ENTRANCE EXAMINATION

AUGUST 2014

Examination: Contract Law

Date: Wednesday 20 August 2014

Time: 10.00 a.m. – 1.00 p.m.

Internal Examiner: Raymond J Friel (UL)

External Examiner: Mr James O’Callaghan SC

Instructions:

Candidates MUST answer Question 1 and any TWO of the remaining questions.

Question 1 carries 50 marks, all other questions carry 25 marks each.

This paper is 4 pages long including the cover sheet. You should check that you have all the pages and inform the invigilator immediately if any are missing.
Q 1. Larry was a University historian who over a lifetime had collected a vast array of historical documents as part of his research. Most of these historical records concerned the local history of where he was living. As he was retiring, he negotiated a deal with the local historical association whereby he would, over time, donate his substantial historical records to the association provided that they undertook to ensure that the public had access to them. In an exchange of letters, the association promised Larry that they would put these documents on display to the public with an appropriate recognition of Larry’s contribution. Accordingly, the association purchased a small property which it began to convert into a local museum which would house these documents. On completion of the building work, Larry began to transfer some of his records to the association.

Unfortunately Larry had only transferred about 1/3 of his records when he passed away. As beneficiaries, Larry’s family began looking through what was left, and they realised that some of the documents were of considerable value, particularly certain records of national historical significance. Larry’s family now refuses to hand over the remainder of the documents to the association, claiming that they were not legally obliged to continue with Larry’s donation. The association has so far spent €100,000 in the expectation that they would be displaying all of Larry’s documents.

Advise the association of its position under the law of contract.

50 Marks
Q 2. Tom was a volunteer official at a cycle race and was responsible for notifying cyclists when they had finished by waving a chequered flag from the sideline. Tom had been distracted as one of the cyclists, Dick, was coming to the end of his race. Suddenly, spotting Dick from the corner of his eye, Tom swung violently around, walked onto the finish line and waved the flag into Dick’s face. Dick panicked and swerved away from the flag, crashing into a wall and suffering severe injuries.

Prior to the race, in a written contract with the race organisers, Dick had signed an exemption clause. However, the exemption clause only expressly covered the potential liability of the organisers and its employees, but was silent with respect to any potential liability of any volunteers.

Advise Tom as whether or not under the law of contract he can claim the benefit of the exemption clause signed by Dick.

25 Marks

Q 3. Charlie did not usually drink but as he was going through a very rough divorce, he had begun to take the odd tipple. During this period, he went out to dinner with some business colleagues and although he only had three drinks, he woke up the next day with no recollection of what had happened the night before. He received a phone call from his friend Alan who said that he was really surprised that Charlie had agreed to buy 10 of Bertha’s ex-rental cars as they were usually in very poor condition. Try as he might he could not recollect the events of that night. About a week later Charlie phoned Bertha and said that he believed he may have offered to buy some of her cars but that he had not meant it. Bertha said that there was no question about it, that she had already arranged for the transportation of the cars to Charlie at some significant cost to herself, and that she was holding him to his agreement.

Advise Charlie as to whether the agreement with Bertha is valid.

25 Marks
Q 4. Mary and Jane had run a business together for several years but had grown apart. Mary was interested in developing the business whereas Jane simply wanted to enjoy herself. They decided to go their separate ways and by written agreement Jane transferred her interest in the business in exchange for Mary relinquishing any interest in an investment portfolio held in both their names. About six months later, as Jane was finalising arrangements for a round-the-world cruise, she is informed that it has only just been discovered that there is in fact no money in the investment portfolio as it had simply been a scheme designed to defraud the investors. Neither Mary nor Jane were aware of this when they made the original agreement.

Advise Jane as to the validity or otherwise of the original agreement.

25 Marks

Q 5. In relation to any TWO of the following issues, comment on whether the law is in need of reform, illustrating your answer with relevant case law:

(a) the principles used in the interpretation of express contract terms;
(b) the role of non-physical duress, such as economic duress, in contract enforcement;
(c) the award of damages for disappointment, distress, upset or frustration for breach of contract.

25 Marks