



Candidate Number _____

Unit 1 Examination Paper

4 December 2021

Time allowed: 3 hours

To pass this examination candidates must obtain a mark of 50% or above. **You must answer ALL of the questions in Section A and THREE out of FOUR questions in Section B.**

Write in full sentences – a yes or no answer will not earn any marks. The mark allocation for each question and part question is given and you are advised to take this into account in planning your work. Write in blue or black ink or ballpoint pen.

Please put your candidate identification number at the top right corner of each sheet of paper (NOT your name) and number the pages. At the end of the examination, collate your answers and put your answers only in proper order in the envelope. Please leave the envelope and your exam paper on your desk and wait to be directed to leave the room by the invigilator. Before leaving the room, please sign the registration form to confirm that you have left your paper on your desk.

Please write legibly, on one side of the paper only: **Marks may be lost if the examiners cannot read your answers.**

Do not turn over this page until instructed by the Invigilator.

Section A

You must answer **ALL** of the questions in this section.

1. Explain what acceptance is and whether an offer can be accepted without acceptance being communicated.

(10 marks)

2. Distinguish between a statement made during pre-contractual negotiations and a term of a contract.

(10 marks)

3. Explain the tests for causation in fact and law.

(10 marks)

4. Describe the approach taken when the court assesses the standard of care.

(10 marks)

Total for Section A: 40 Marks

Section B

You must answer **THREE** questions in this section out of the following four.

Question 5: Contract Law

You work as a Paralegal in the Civil Litigation department at Marshall and Chaton LLP, a high street firm in Birmingham. Your firm acts for Tool and Equipment Hire Ltd ("TEH") who are a market leaders in the tool hire industry in the UK and Ireland. They buy, sell and hire out machinery to members of the public and businesses.

TEH have received a letter from Mrs Tabitha Davidson, a builder. She is complaining about their service and is arguing that she lost a £40,000 contract as a result of TEH procedures. She is threatening legal action.

On the 12 September Mrs Davidson sent an email to the company enquiring about buying a Hawi TF 4500 AVR Heavy Duty Breaker, a jackhammer that could be used on big concrete demolition jobs. A sales representative from TEH emailed her straight back and said that they only had one Hawi TF AVR Heavy Duty Breaker in stock. It was a 3500 model. They indicated she could have it for £12,700 and was told to drop into the warehouse if she wanted it, but that they were very popular.

On the 15 September, Mr Eric Harper, another builder, visited TEH to buy a jackhammer. TEH told him that they had one available, for £12,700, for delivery next week. Mr Harper agreed to buy it, and paid TEH. As Mr Harper was leaving the warehouse Mrs Davidson arrived. Mrs Davidson said to a TEH representative that she was accepting the terms of their email. The TEH representative told her that she was too late, the last jackhammer had been sold to Eric.

Write the body of a letter of advice setting out whether TEH's email to Mrs Davidson was an offer and, if so, whether they were legally obliged to sell the Hawi TF AVR Heavy Duty Breaker to Mrs Davidson.

(Total: 20 marks)

Question 6: Contract Law

You work as a Paralegal in the Civil Litigation department at Yardley and Harrison LLP. The firm is based in Chester. You are advising Harriet Green, a mechanic from Shrewsbury.

In December last year, Miss Green decided to sell her garage in Shrewsbury. It was one of the leading car repair garages in Shrewsbury, specialising in all areas of vehicle repair and servicing.

On 14 December Mr Bennett visited the garage to inspect the business. Miss Green told him that the business was making a profit of £65,000 per annum. Happy with this level of profit, Mr Bennett was said he would like to agree terms to buy the business. The pair entered negotiations and discussed the inclusion of the tools. It was agreed that Mr Bennett would purchase the premises, the motorcycle lifts, the jacks, the axle stands and the air compressor. Miss Green promised that all of the tools were in excellent condition. They then signed a contract for the sale of the business.

The negotiations around the sale took four months and during this time Miss Green was setting up a new business in Chester and stopped doing so many hours at the garage. As a result, by the time the deal was finalised, the annual profit had dropped to £35,000. If Miss Green had checked the books she would have noticed this.

Six months later, Mr Bennett started to prepare the year-end accounts. He discovered that the annual profits of the business in the year before the purchase had been only £35,000.

To make matters worse, the air compressor kept failing during the first year. Mr Bennett has sent a letter before action to Miss Green alleging misrepresentation. Miss Green wishes for you to advise her on what misrepresentation is, whether her statements amount to misrepresentation and the potential consequence if Mr Bennett is successful in his claim.

Write the body of a letter to Miss Green advising what misrepresentation is, explain the types of misrepresentation and explain the remedies that may be available to Mr Bennett.

(Total: 20 marks)

Question 7: Tort Law

You work for Smythson Solicitors in Eastbourne. Mrs Badderson is a Senior Solicitor at the firm and she has approached you to do some work on the files of Miss Jessica Thorne and Mr David Bister.

Jessica Thorne went with her new boyfriend, David Bister, to Eastbourne Reservoir, where Eastbourne Watersports Centre is situated. They took Phillipa, Jessica's 9-year-old daughter. The Watersports Centre offers water-based leisure activities, including wakeboarding, jet skiing and windsurfing.

On arrival at the Reservoir Jessica booked Phillipa a Beginner's Jet-ski lesson. The lesson was taken by a specialist jet-ski instructor, Megan. When Jessica met Megan she was a little anxious, but Megan reassured her and explained that she would drive the jet-ski with Phillipa on board.

Megan piloted the jet-ski out to the middle of the reservoir. There was a 15 mile per hour speed limit, but Megan decided to ignore this to make the ride more exciting. She sped up to 25 miles per hour. While travelling at this speed, Megan lost control of the jet-ski, which turned on its side, throwing Phillipa off into the water.

Megan had forgotten to do up Phillipa's lifejacket and when Phillipa hit the water the lifejacket came off. Phillipa sank underneath the water, much to the horror of Jessica, who was watching from the side of the lake. Luckily, a lifeguard witnessed the accident and was able to rescue Phillipa. David had returned to his car to get his phone, so he did not see the accident, but he was very upset when Jessica told him about it later.

Jessica, David and Phillipa have all been diagnosed with post-traumatic stress disorder (PTSD) as a result of the accident.

Prepare a summary of advice for Miss Thorne and Mr Bister on what must be demonstrated for a Claimant to be owed a duty of care as a primary or secondary victim in the context of psychiatric injury.

(20 marks)

Question 8: Tort Law

You work as Legal Assistant at an SRA regulated firm specialising in personal injury, Tavistock and Belvoir LLP. The firm is based in Cambridge. You are working on the file of Miss Sarah Downing.

At midday on the 5 May 2021, Miss Downing was driving on the A6 when she was involved in a road traffic accident. She was listening to the radio, but the service dropped off because she entered a 'black spot', so she decided to put a CD in her car stereo. While looking for a CD, she lost control of her car and swerved into the central reservation causing the car to spin in the road in front of the cars that were following her.

Mr Dominic Little, who was following Miss Downing in his car at a safe distance, was unable to avoid her car. He was injured as a result and was taken by ambulance to Cambridge Royal Infirmary.

At the hospital, Mr Little was examined by Dr Tory Thornton, a senior doctor at the hospital. Dr Thornton was distracted by fears over another patient, and she negligently failed to check Dominic for concussion. Checking for concussion after a road traffic accident is standard practice. Mr Little died during the night from a severe brain injury. It has since been discovered that the standard concussion check would not have revealed the fatal injury.

Write the body of a letter of advice to Miss Downing setting out whether she may be liable for the death of Mr Little. The advice should cover what causation is and when the act of a third party may break the chain of causation.

(20 marks)

Total for Section B: 60 Marks

END OF PAPER