



Candidate Number \_\_\_\_\_

## Unit 1 Examination Paper

12 June 2021

**Time allowed: 3 hours**

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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.

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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 how the Postal Rule is an exception to the principle that acceptance must be communicated.

(10 marks)

2. Distinguish between a representation and a term of the contract.

(10 marks)

3. Explain the tests used to establish causation in negligence.

(10 marks)

4. Explain the approach the court will take when assessing 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 at Barkers and Bonkers LLP in Cheltenham. Your firm is acting for a farmer, Giles Bancroft. Giles has just purchased a llama farm from Mrs Henrietta Marshall. Mr Bonkers, a senior partner of your firm, is advising Mr Bancroft on issues that have arisen in relation to the purchase.

Mrs Marshall was a llama farmer at Priory View Farm. In September 2020 she advertised the farm for sale and Mr Bancroft, having seen the advert, visited the farm. Mr Bancroft had previously farmed pigs, cows and sheep. He told Henrietta that he wanted to buy a farm where different animals could roam together. Mrs Marshall stated that she used to farm 100 cows at Priory View Farm and because of this she thought that, as well as the 20 llamas currently on the farm, there would also be room for about 100 pigs and 100 sheep.

Mr Bancroft was really pleased to hear that the farm had 20 llamas and told Mrs Marshall that this was very important to him because he had none of his own. Mrs Marshall described the llamas as 'friendly girls' and also pointed out that the farm made profits of £60,000 a year.

Approximately three months later Mr Bancroft and Mrs Marshall met to sign a 'Memorandum of Sale', which stated: 'Sale of Priory View Farm, all fixtures, fittings and stocks. £750,000.' They signed the memorandum and Mr Bancroft took possession of the farm in February 2021 and moved in with his 100 pigs and 50 sheep. Later that day, he was shocked to discover that there were only 15 llamas. At the end of the first month, Mr Bancroft bought 5 more llamas. The new llamas were not well received by the other llamas, who kept attacking them. Unfortunately, it also became clear that there was only room for the 100 pigs on the farm and Mr Bancroft had to sell his 50 sheep.

When Mr Bancroft looked through the farm's accounts he discovered that it had only made profits of £50,000, not £60,000.

Mr Bonkers has asked that you write to Mr Bancroft advising whether Mrs Marshall's statements about both the room on the farm for more animals (about 100 pigs and 100 sheep) and the profits of £60,000 a year, are misrepresentations. He has also asked that you explain the types of misrepresentation and the remedies that may be available to Mr Bancroft.

Write the body of a letter to Mr Bancroft advising what misrepresentation is.

**(Total: 20 marks)**

### **Question 6: Contract Law**

You work as a paralegal in the civil litigation department at Tanner and Tucker LLP in Plymouth. Your firm is acting for a Donny Diamond. He recently decided to buy a fish and chip shop business and has sought advice from Ms Timms, a solicitor at your firm, in relation to the purchase.

Miss Charlene Heather recently decided to sell her fish and chip shop business, which runs from 92 Grand Parade, Plymouth. She put a 'For Sale' sign outside the shop which Donny saw one morning whilst he was out for a run. Later that day he went into the shop to enquire about buying the business. He has instructed your firm that he explained to Miss Heather how important it was for him to buy a profitable business and she had said that, over the past five years, the business had made substantial profits averaging £25,000 per annum. Miss Heather also told Donny that if he wanted to buy the business he should act quickly, because the business was being put up for auction the following week.

Donny considered the matter for a couple of days. Concerned that he might miss out if the business were sold at auction, he went back to Miss Heather and agreed to buy the business. Donny and Miss Heather negotiated a price and exchanged copies of a Memorandum of Sale. The Memorandum of Sale said: 'Sale by Miss Charlene Heather of the

fish shop located at 92 Grand Parade, Plymouth to Donny Diamond for £100,000. To include the lease, contracts, stock and goodwill. Profits averaging £25,000 per annum over the last five years.'

After buying the business Donny was shocked to discover that the premises belonging to the business had no parking facilities, which he had assumed they would have. As a result, it was difficult to attract new customers. He also discovered that the auction had been cancelled, so there had been no rush for him to buy it.

Donny would like advice on whether the statement 'Profits averaging £25,000 per annum over the last five years' is a term of the contract. He would also like advice on whether the inclusion of parking facilities may have been a term.

Miss Timms has asked you to write the body of a letter to Mr Diamond explaining whether the statement about profits is an express term of the contract. She has also asked you to set out in your advice how terms may be implied by the courts on the particular facts of a case and whether a term that the business would have parking facilities will be implied in this way into the contract.

Write the body of a letter to Mr Diamond advising what terms of a contract are and how they may be incorporated into a contract.

**(Total: 20 marks)**

### **Question 7: Tort Law**

You work for Harrisons Solicitors in Shrewsbury. Mrs Harrison is a senior partner at the firm and she has approached you to do some work on the file of Mr Percy Benson.

In 2020 Mr Benson was suffering from severe headaches, he had tried to take both paracetamol and ibuprofen, but the headaches would not subside. He was also suffering with blurred vision.

On 5 October 2020, Mr Benson attended the Emergency Department (A&E) at Shrewsbury Hospital. He spoke to the receptionist, Lisa. Lisa

was new and had not received the appropriate training and failed to ask Mr Benson a set of mandatory questions that A&E receptionists should ask when a patient arrives complaining of headaches. The list of questions Lisa should have asked Mr Benson included whether the patient had suffered loss of vision and whether they felt dizzy. Had Lisa asked Mr Benson these questions, he would have answered 'yes' to both and consequently would have been assessed as a high-risk patient. Instead, he was assessed as a low-risk patient and had to wait two hours for medical attention.

Because of the delay, Mr Benson suffered a serious stroke. If he had been processed quickly as a high-risk patient, there is a 75% chance the stroke would have been prevented.

Mr Benson later found out that he had an underlying genetic disorder, which made the effect of the stroke much worse. Most people would have suffered only temporary symptoms but, due to his genetic disorder, Mr Benson was paralysed for life.

Mr Benson is seeking advice on any potential claim for damages he may bring. Mrs Harrison has advised that causation will be an issue in any potential claim he may have. Having recently met with the client, Mrs Harrison has approached you to write a letter to him setting out whether Shrewsbury Hospital owed him a duty of care and, if so, whether that duty was breached. Mrs Harrison would also like you to set out whether Mr Benson will be able to establish factual causation, what is meant by causation in law and whether he is likely to recover damages for the full extent of his injuries.

Write the body of a letter to Mr Benson advising on the issue of causation in negligence.

**(20 marks)**

### **Question 8: Tort Law**

You work for Bennet and Thompson LLP in Dagenham. For some time

now you have been working from home because of COVID 19. During a break from the lockdown restrictions in October last year Amrit, Julie and Marcus, three of your colleagues, were going into the office for a day to collect some files and do some work which was difficult to do remotely.

Amrit and Julie are in a relationship and drove to the office together. Amrit drove and Julie was seated in the front passenger seat. Both Amrit and Julie were wearing their seatbelts. Part of the journey required them going on the Motorway, Amrit always obeyed the 70mph speed limit.

When on the motorway Amrit followed a large lorry being driven by Henry. Henry lost concentration because he was using his mobile phone while driving and he hit the barrier on the central reservation. Henry's lorry spun round blocking the path of Amrit and Julie. Despite braking as soon as possible, Amrit continued at speed and crashed his car into Henry's lorry.

Marcus was driving on the same stretch of motorway, just behind Amrit and Julie's car. He witnessed the crash and had just enough time to swerve and narrowly avoid the other vehicles. Marcus was not physically harmed by the incident, but was shocked and distressed and has suffered from depression since the incident.

Amrit, Julie and Henry were taken to hospital. Amrit had suffered a fractured skull and Julie had fractured her left ankle. Julie's leg was placed in plaster and she was advised to use a crutch whenever walking. Two weeks later, Julie tried to walk their dog without her crutch. She stumbled and fell, causing the ankle further injury, a result of which is a much worse outlook for recovery.

Although Marcus was physically unharmed by the incident, he began to suffer from nightmares and panic attacks soon afterwards. He has been diagnosed with Post-Traumatic Stress Disorder (PTSD).

Amrit knows you've been studying tort law as part of the costs law qualification. He telephoned you last night and has asked you to prepare a summary of the law for him so that he can understand any potential claims.

Prepare a summary of advice for Amrit 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)**

**Total for Section B: 60 Marks**

**END OF PAPER**