

THE HONORABLE SOCIETY OF KING'S INNS
DEGREE OF
BARRISTER-AT-LAW

ENTRANCE EXAMINATION

LAW OF TORTS

August 2023

DATE | **Wednesday, 9 August 2023**

TIME | 3 hours

EXAMINER | Mr Paul Ward (UCD)

EXTERNAL EXAMINER | The Hon Ms Justice Emily Egan

Instructions

A candidate must answer **Question 1** (50% of marks) and **TWO** other questions (each 25% of marks).

This paper is 5 pages long including the cover sheet.

LAW OF TORTS

Q1 | COMPULSORY QUESTION

50 MARKS

Logs for You Ltd is owned by Mr. A. Mr. A's premises is located in woodland on the outskirts of an urban area. Mr. A fells ash and birch trees on his 10-acre woodland site which he then kiln dries and sells to the public. Mr. A has been in business since 2013. A unique aspect to Mr. A's process is that he treats the logs with a secret solution manufactured in the UK and imported into Ireland by Fire Solutions Ltd which sells it on to retailers of kiln dried logs. The secret solution enables the logs to burn longer, particularly in stoves.

In August 2021, Mr. A felled a very large number of ash trees which he stockpiled into a pyramid shape of some twenty-five-foot height on the edge of his land, which borders Mr. B's farm. Later that autumn of 2021 there was persistent heavy rainfall which caused the stability of the log pile to loosen and cascade on to Mr. B's farm, where his tractor was badly damaged to the sum of €10,000. Mr. B was also injured in the event, suffering a broken arm. He could not work his farm for 6 months and lost income of €50,000.

Previously, in August 2020, Mr. C was driving along the road when the branch of an ash tree on Mr. A's land fell onto the car causing Mr. C to crash into a stone wall. His daughter, Ms. D, was catapulted from the vehicle and rendered a paraplegic from the injuries she sustained. The hospital bill for her treatment and stay was €25,000. Fortunately, Mr. C had medical insurance to cover the cost of the treatment. Mr. C was also injured in the crash, suffering bruising, lacerations, and a whiplash type injury to his lower back. An x-ray of his lower back did not disclose any further injuries. Mr. C had to have physiotherapy for back pain and he had to take time off work. The back pain continued to persist after the accident and in September 2022 a second x-ray revealed an undisplaced fracture of the sacrum. Following the result of this second x-ray, Mr. C immediately commenced proceedings against Mr. A. At the time of the accident a passing motorist, Mr. E, drove over some of the debris from the crash which damaged his car. Mr. E stopped to help, but when he saw Ms. D, who was then aged 10, on the road he went into a state of distress upon seeing the injured girl. He is now being treated for post-traumatic stress disorder.

A year ago, a rival business purchased some woodland bordering Mr. A's operation. Logs 4 You Ltd is run by Mr. F and has built a steady customer base. Mr. A has calculated a drop of 25% in sales amounting to a reduced income of some €75,000 for Mr. A's business.

Recently, a batch of the secret log burning solution was manufactured with excessive concentration of the flammable formula. Mr. G purchased a quantity of the logs from Mr. A which were treated with this excessive concentrate. Mr. G lit his stove with these logs, which exploded and destroyed the stove. A fire subsequently erupted in Mr. G's sitting room. Mr. G called the fire brigade but the fire engine was directed to

the wrong location resulting in the fire burning longer and causing more damage than would have occurred had the fire engine arrived directly to Mr. G's house.

You have been retained to advise on the following:

What cause or causes of action in Tort Mr. A faces from Mr. B, Mr C, Ms. D and Mr. E in relation to the road accident and the quantum of damages, if any.

What cause or causes of action in Tort Mr. A has against Fire Solutions Ltd and against Mr. F and the quantum of damages, if any.

What cause or causes of action in Tort Mr. G has against Mr. A and Fire Solutions Ltd and the fire brigade, if any.

LAW OF TORTS

Q2

25 MARKS

ABC Ltd is a financial advice company specializing in the banking investment market. Mr. A approached ABC Ltd seeking to invest a lump sum of €150,000. ABC Ltd advised that DEF Bank Ltd was a medium risk investment. Mr. A took this advice from ABC Ltd and invested in DEF Bank Ltd in 2022 at a time when DEF Bank had made national news that it owed the Revenue Commissioners €1 million in outstanding taxes.

In 2021 the Revenue Commissioners obtained a Mareva injunction to freeze DEF Ltd's bank account with GHI Bank Ltd. The Revenue Commissioners intended to use the funds held with GHI Bank Ltd to satisfy the debt owed to them. On 3rd April 2021 at 12 noon, the Revenue Commissioners served the Mareva injunction on the manager of the GHI branch where DEF Bank Ltd held the account. At 1 pm, Mr. B, the managing director of DEF Bank Ltd used the internet banking system. This method managed to bypass the Mareva injunction. Mr. B successfully transferred €1 million to his personal bank account.

DEF Bank Ltd is insolvent and Mr. A has lost his investment and the Revenue Commissioners are also at a loss.

You have been retained to advise Mr. A and the Revenue Commissioners on what Tort or Torts they can rely upon to recoup their respective losses. There is no need to advise on the operation of Mareva injunctions.

LAW OF TORTS

Q3

25 MARKS

Mr. A and Mr. B are adjoining landowners in a rural area. Mr. A raises cattle and sheep and Mr. B grows crops. Their lands are separated by a stone wall which is lined on Mr. B's boundary by a long line of tall trees.

Over the years the roots of the trees on Mr. B's land surfaced at the boundary wall and began to weaken the wall foundations.

Last summer, the wall collapsed, and the repair of the wall will cost €10,000. With the collapse of the wall Mr. B's dog entered Mr. A's land and harassed his sheep. The flock of sheep fled in all directions. Some of the sheep fell into ditches and others became entangled in barbed wire. The entire flock has been lost at a cost of €20,000. Mr. B's dog then spotted Mr. A tending his herd of cows. The dog charged at Mr. A but stopped short of colliding with Mr. A. Mr. A was startled by the charging dog and stumbled backward and fell to the ground and cracked his head.

You have been retained to advise Mr. A what cause or causes of action Tort he may have against Mr. B.

LAW OF TORTS

Q4

25 MARKS

Mr. A and Mr. B were travelling home on the local tram system last summer. Mr. B noticed that Mr. A's wallet was protruding from his rear trouser pocket and appeared to contain a large number of high denomination bank notes.

Mr. A disembarked from the tram at his stop and was followed by Mr. B. Mr. B grabbed Mr. A from behind and dragged him to a nearby scrub land. In the scuffle Mr. A's wallet fell from his pocket and was lying on the edge of the platform. On the scrubland was a shack, into which Mr. B locked in Mr. A. Mr. A managed to escape from the shack through a sky light sometime later.

In the meantime, Mr. C came across Mr. A's wallet, which also contained his driving license, bank and credit cards and the key to his house. Mr C. retained the wallet.

Mr. A was traumatized by the incident and is receiving psychiatric attention for his condition.

You have been retained to advise Mr. A on what cause or causes of action in Tort he may have against Mr. B and Mr. C.

LAW OF TORTS

Q5

25 MARKS

Critically assess the changes introduced by the Defamation Act, 2009.

END OF PAPER