



NATIONAL OPEN UNIVERSITY OF NIGERIA
PLOT 91, CADASTRAL ZONE, NNAMDI AZIKIWE EXPRESS WAY, JABI ABUJA.
FACULTY OF LAW EXAMINATION
2020_1 EXAMINATION

COURSE CODE: PPL 323

COURSE TITLE: LAW OF TORTS 1

Instruction: QUESTION 1 (ONE) and 2 (TWO) represent possible compulsory questions which would carry 25 marks and questions 3 to 6 represent the remaining questions which should carry 15 marks each.
Answer four (4) questions in all.

QUESTIONS

1. Joe took his 5 year old car in for an MOT test, and it passed. The tester failed to notice that the steering mechanism was defective. Two days after the test, Joe was driving to his village when the steering failed and he crashed into a tree by a hill. The local authority had previously considered placing a SLOW marking near the hill because of previous accidents at that spot, but no action was taken due to other priorities. Joe was shaken up and his left arm was broken. He exited the vehicle, which was still occupying about half of the left side of the road. Five minutes later Fred, who was driving a lorry at excessive speed, failed to see Joe's car as he came over the hill and when he swerved to avoid the car, he lost control of his lorry and crashed into an oncoming car being driven by Sam, who was killed instantly. Discuss the liability of all parties.

2. Foly Chill is the owner of a large food production factory, specializing in baked goods. They operate out of a large factory, which runs 24/7, producing cakes for supermarkets across the country. They rent their factory from RightGo Facilities, who are in charge of maintaining the Foly Chill Co's factory, and supplying it with electricity and water. One day, due to a failure to maintain the power supply running to Foly Chill's factory, the entire building is left without power for three hours whilst the supply is repaired. This causes the factory's ovens to shutdown, ruining all of the cakes currently being baked (which became inedible.) The factory is also unable to proceed with baking its next two batches of cakes. The following week, in acknowledgement of the costs associated with the shutdown, Foly Chill's board of directors decided to diversify their business interests, seeking to acquire two new companies. They identified two different food production businesses they wish to buy – Tea Corp and Coffee Co. The board of directors decided to check the stock prices for Tea Corp, and saw in the Financial Times that Tea Corp has been selling at a good price, indicating that it is a healthy business. At the bottom of the stock prices, there is a printing disclaimer – “Warning: these figures are subject to correction, and should not be used for business acquisition purposes.” Ignoring this disclaimer, Foly Chill

makes a successful takeover bid based on this information. It later emerges that the price listed for Tea Corp is in fact a misprint, and that the organisation has been losing value for months. As a result, Foly Chill have to sell Tea Corp at a significant loss. The board decided to employ a private auditor to check out Coffee Co – the auditor reports to them that Coffee Co would be a good investment. Unfortunately the auditor has failed to notice that Coffee Co has a large number of unpaid invoices outstanding, and is therefore in significant debt. This is only discovered by Foly Chill after it has acquired the organisation. Again, it has to sell the organisation shortly after acquisition, at a significant loss. You are asked to provide advice on the following possible claims:

- a) Foly Chill's claim against RightGo Facilities for negligently failing to maintain the power line.
 - b) Foly Chill wishes to sue the Financial Times for negligent misstatement.
3. Answer the following:
- i. Explain and also compare the rule of 'Intentional damage' and the rule of 'strict liability' in tort.
 - ii. The law of Tort has multiple objectives. Discuss
4. The Hawkins Laboratory is undertaking research on a weaponized strain of the common cold. This research is defensive in nature – the lab seeks to prevent the use of the common cold as a bio-weapon. As a result, the lab works with a number of dangerous samples of the virus.
- One day, a breach in containment leads to an outbreak in a nearby town, killing several residents. The residents bring a case against the laboratory. In the course of the investigation, it is found that the breach was ultimately caused by a lack of maintenance of the lab's contamination system. Although the lab was aware of the issue, it did not fix it, citing the exorbitant cost of hiring a decontamination consultant as the reason.
- Identify the factors which the court will use in determining the applicable standard of care for Hawkins Laboratory. Do not discuss the doctrine of [Rylands v Fletcher](#).
5. (a) Is trespass to person a tort? Explain your answer by outlining the characteristics of torts which constitute a trespass in person.
- (b) What are the classifications of law of tort and their purposes?
6. Lanre, a 17-year-old boy, decides one day to break into an abandoned local warehouse. The owners moved out several years to a new premises, and secured the premises before they left. In order to enter the warehouse, Lanre has to remove a heavy metal grill using some tools. After living in the warehouse for a few days, Lanre has had a chance to explore the warehouse thoroughly, he notices that the back balcony attached to the rear of the warehouse is rusted and rickety. Lanre decides to host an illegal rave, and invites a number of local teenagers to it.

The party is in full swing when one of Lanre's friends, Kitan, decides to go out for a smoke. He is on the upper level of the warehouse, and sees the door to the back balcony. He walks onto it, and under his weight it collapses. He fell from a 10ft height, and breaks his leg. His friends took him to hospital. Lanre tells another friend, Ese, that there are some old wooden ladders lying about next to the warehouse which she can use to get upstairs. Lanre tried to use one of these ladders once before despite them being chained up and labelled with a large sign 'do not use – for waste only.' Lanre broke the chain, discarded the sign, and tried to use one of the ladders - it broke under his weight. Ese sets up the ladder where the balcony used to be, but whilst climbing up the ladder breaks, and Ese falls, breaking her arm. Ese too, is taken to hospital.

Outside of the warehouse is a large pit, used to dispose of industrial waste. It is unfenced and not signposted. In an effort to take the perfect selfie, another partygoer, Kabir, steps backwards and falls over the edge, he dies from the fall, but nobody discovers him until the day afterwards. His parents are worried and call the police, who discover his body after investigating his whereabouts. The police note in their report that they have seen teenagers hanging around near the pit before – it is a popular meeting place. They have spoken to the owners about repairing the external fence to stop these gatherings from occurring, but nothing has come of it.

Discuss the issues of liability in respect of injury or damage suffered by the relevant parties.