



NATIONAL OPEN UNIVERSITY OF NIGERIA
PLOT 91, CADASTRAL ZONE, NNAMDI AZIKWE EXPRESS WAY,
JABI, ABUJA
FACULTY OF LAW
2021_2 EXAMINATION

COURSE CODE: PPL324

COURSE TITL: LAW OF TORTS II

TIME ALLOWED: 3 HOURS

Instruction: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS. (QUESTION 1 (ONE) ATTRACTS 25 MARKS)

Question 1

Okon, a 200 level criminology student of NOUN, Uyo Study Centre visited his Faculty in Abuja to complain about missing results. Unknown to him, the reception had just been mopped and was still wet. As a result, he slipped on the floor shattering his brand new iPhone-Z as he tried to regain his balance. The cleaner begged him not to report the damage because he forgot to put out a warning sign as he had been trained to do and he had no money to replace Okon's phone. On getting to the office of the Dean, he was asked to wait for 1 hour as the Dean was taking a nap. He flared up and called the Dean an expired battery then charged towards his office. When the Dean heard Okon's voice, he came out of his office and was challenged by Okon who called him a spare tyre fond of doctoring his certificates and reducing his age at will. This annoyed the Dean who asked the security to escort him out of the premises. He was escorted out of the premises by the CSO of the university who stole his phone in the process and asked two area boys outside the gate to 'teach him a lesson'. The area boys beat him up and locked him in an empty shop. When a fellow student opened the door for him, he refused to come out saying that those who put him there must come and bring him out. Identify the tortious acts, assessing the liabilities for each tort and the proper parties (plaintiff/defendant) in the event that the matter becomes subject to litigation.

Question 2

Like equity, the rule in *Ryland's v. Fletcher* is a child of necessity. Discuss the origin of the rule making reference to a relevant equitable maxim, lacunae which made existing torts unsuitable for the claim and the contribution of Blackburn J and Lord Cairns in establishing the characteristics of the rule.

Question 3

Discuss the relevance of any three of the following cases to the development of the law of Torts in Nigeria (15 marks)

- a. *Popoola v. Pan African Gas Distributors (1972) All NLR 831*
- b. *Jamarkani Transport Ltd. v. Abeke*
- c. *Umudje v. SPDC (1976) 11 SC*
- d. *NEPA v. Alli (1992) 8 NWLR Pt 259 pg. 279*

Question 4

With the aid of relevant authorities advise on the following scenario giving reasons:

- a. Aliko spends his Sundays at his weekend villa situate at Plot 11, Industrial Strip, Lekki Free Trade Zone. He recently noticed that his imported Arabian date palm trees were shrinking and turning yellow. His investigations revealed that the plot next to his villa was an insecticide factory where noxious gases were expelled into the atmosphere from Monday to Saturday. When he complained, he was told to live with it since he chose to come and live in an industrial area. Advise him.
- b. Johnny has a dog named Bingo which is much loved by the children in his neighbourhood. Bingo had just had a dose of his routine vaccination and was restive so Johnny decided to take him for a walk without his leash or a muzzle. When his neighbour's son – Chris saw Bingo, he approached it to pet it as usual. Though Johnny immediately shouted 'Bingo, sit!' Bingo jumped at Chris and bit him on the thigh.
- c. Bisi, a marketer with Flipside Sales Plc. went out of the office on official assignment. Having spent the whole day outside the office, she called her boss to inform her that she would close from there. On her way home, she felt a pressing need to heed the call of nature. As she was still far from home, she rushed into the office instead. She got into the office at 4.20pm (almost 20 minutes after closing time), did not bother to sign in but rushed straight to the rest room nearest to the reception. After relieving herself, she washed her hands but forgot to turn off the tap. The adjoining office containing the server room of Computer Wizards Ltd. was flooded as a result and their equipment completely destroyed.

Question 5

- a. State 5 differences between libel and slander.
- b. Slander is not actionable per se. With reference to relevant authorities, mention 4 exceptions to this rule.

Question 6

With the aid of relevant authorities, exhaustively discuss any three forms of passing off.