|  |
| --- |
|  |

**Module Code:**

**Module Title: TORT LAW IN CONTEXT**

**Module Leader:**

**Release Time:**

**Submission Deadline:**

**Instructions to Candidates:**

**Please read the instructions below before starting the paper**

* Module specific information is provided below by the Module Leader below.

* Create and save one document only, containing all your answers. It should be a **Word** document (ending in .doc or .docx). You should call it ‘my 4LLAW003W assess’. In case of technology issues you should save your work on a regular basis.
* You must work on your own and should not discuss your work with other students, via email, telephone or any other means. Your answers will be run through the Turnitin similarity detection software, and so any ‘cut-and-pasted’ answers will be easily identified. If you submit work which is not your own, you will be open to an accusation of an assessment offence (plagiarism and/or collusion). If you send drafts of your answers to any other student, you will also be open to an accusation of an assessment offence.
* Where the University believes that academic misconduct has taken place the University will investigate the case and apply academic penalties as published in [Section 10 Academic Misconduct regulations.](https://www.westminster.ac.uk/sites/default/public-files/general-documents/Section%2010%20Academic%20Misconduct_0.pdf)
* As you will have access to resources to complete your assessment, any content you use from external source materials will need to be referenced correctly. You do not need to provide a bibliography. Whilst we do not expect the full OSCOLA footnote style to be used, and you may put references in the text rather than in footnotes, whenever you directly quote, paraphrase, or summarise someone else’s ideas, you have a responsibility to give due credit to that person for their work. Reference to authority, such as case names, textbooks, and articles should be provided if required. Support can be found at

<https://www.westminster.ac.uk/current-students/studies/study-skills-and-training/research-skills/referencing-your-work>

* ***Once completed please submit your paper via the submission link provided on the Blackboard site for the module concerned.*** You must submit your assessment within twenty-four hours of the Start Time above. If you submit more than one completed answer paper, you will overwrite the previous version you submitted. You can, of course, do this if you wish within the twenty-four-hour submission window. Be sure to check that you are submitting the correct version and keep a copy of your receipt.
* ***Work submitted after the deadline will not be marked and will automatically be given a mark of zero.***

|  |
| --- |
| **Module Specific Information: Instructions to candidates*** You will find a copy of the timed assessment on Tort’s Blackboard site under “ASSESSMENT” >> TIMED ASSESSMENT 4LLAW003W and 5LLAW003W Tort Law (21/07/2020 @ 14:00)
* Answer **TWO** questions in total:
	+ The **COMPULSORY** problem question in Section A and
	+ **ONE** essay question from Section B.
* Question Weighting:
	+ The compulsory question is worth 60% of the overall mark
	+ The question in Section B is worth 40% of the overall mark
* Begin each answer on a separate page of your document and indicate clearly the number of the question that you have attempted.
* Word Limits:
	+ You have a total of 3,000 words maximum (including references)
	+ We suggest you spend a maximum of 1,800 words on Section A
	+ We suggest you spend a maximum of 1,200 words on Section B
* You should submit you work via the submission link on Tort’s Blackboard site under “ASSESSMENT” >> TIMED ASSESSMENT 4LLAW003W and 5LLAW003W Tort Law (
 |

**SECTION A – Answer this COMPULSORY question**

Ariana regularly takes her neighbour’s child, Cristiano, to school. One day, on their way to school, Ariana meets a friend and starts chatting. She fails to notice that Cristiano has wandered off. Cristiano has seen his friend standing outside the school and, in an attempt to reach him, Cristiano runs out in front of a bus carrying school children. The bus driver sees Cristiano but cannot steer out of his way as the steering locks on the bus, so it is about to hit Cristiano.

Ant and Geoff, two teachers standing outside the school, see the bus heading for Cristiano and run out in the road to rescue him. Ant trips on a loose paving stone, falls over and due to his very rare bone disease shatters both hips. However, Geoff manages to throw Cristiano to the side of the road, where Cristiano suffers only cuts and bruises. Unfortunately, Geoff hits his head on the road and breaks his leg.

An ambulance is called. It takes a very long time to arrive but finally does so and takes Ant and Geoff to the hospital. Ant dies from complications with his injuries, but prompt treatment would have made no difference. He leaves behind a partner and their newborn child. Ant was the main wage earner of the family.

At the hospital Geoff is given treatment for his head injury but the hospital tells him they are unable to treat his leg. It has been so badly injured that Geoff may be unable to walk for the rest of his life. It is possible that the hospital would have been able to successfully treat Geoff’s leg had he arrived there sooner.

Though not wearing his seat belt, the bus driver had insisted that all of the children wear theirs so none of the children on the school bus were physically injured. However, three of the children suffered shock having witnessed the accident and are now extremely fearful of riding on buses.

The bus driver’s wife, Mrs Gaga, sees a report of the accident on the local TV news and recognises her husband’s bus. She rushes to the hospital where she sees her husband covered in blood. It later transpires that, though suffering from minor injuries, her husband is fine. However, as a result of what she saw, Mrs Gaga suffers severe depression and will not be able to return to work for a year.

A blogger called TruthTeller writes an online article about the incident claiming that the steering locked on the bus because MassiveTransit, the bus company, did not spend ‘massive’ amounts on maintaining their vehicles. Having read the article Juventus Borough Council cancelled a lucrative contract with MassiveTransit to run their local bus service*.*

**Advise all parties of their rights and liabilities in tort, making reference to case law**

**(Please turn over)**

**SECTION B – Answer any ONE question from this section**

**Question 1**

Recent case law has demonstrated that an employer’s responsibility for torts in relation to their employees is difficult to avoid. Nevertheless, there are important justifications for imposing such responsibility.

Discuss the above statement with reference to case law and statute.

**Question 2**

Discuss the extent to which the current approach taken by the courts to the recovery of economic loss causes problems for claimants.

Use case law to support your discussion.

**Question 3**

Discuss the ways in which occupiers of land might find themselves liable in tort and explain whether or not you think this liability is too complex and uncertain.

Use case law and statute law to illustrate your answer.

**Question 4**

“In short, private nuisance regulates relationships between neighbours, defining their mutual rights and obligations with respect to land use by striking a fair and reasonable balance between them” K Horsey and E Rackley *Tort Law* (6th edn, OUP 2019, 543).

With reference to case law, discuss whether or not private nuisance is effective in regulating relationships between neighbours.

**Question 5**

The existing law of trespass to the land does not adequately protect landowners against unjustifiable interference from unwanted visitors.

Discuss whether or not you agree with this statement using case law to illustrate your answer.

**(Please turn over)**

**Question 6**

To what extent does the tort of defamation successfully preserve a balance between an individual’s right to protect his or her reputation and the general right to free speech?

Consider your answer with reference to case law and statute law.

**Question 7**

With reference to relevant case law, discuss how effectively the torts of trespass to person protect an individual’s physical integrity.

**Question 8**

Discuss the extent to which the tests for causation in tort are effective in linking the defendant’s negligence to the damage caused.

Your discussion should include consideration of case law to support your arguments.

**END OF PAPER**