

UNIVERSITY OF BOLTON

BUSINESS AND CREATIVE TECHNOLOGIES

ACCOUNTANCY PATHWAY

SEMESTER 1 EXAMINATIONS 2010/11

INTRODUCTION TO LAW FOR ACCOUNTANTS

MODULE NO. ACC1010

Date: 18 January 2011

Time: 10:00am – 12:00pm

INSTRUCTIONS TO CANDIDATES: There are TWO questions on this paper.

Answer BOTH questions.

Both questions are worth equal marks.

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Answer BOTH questions.

1. Julie wished to have a brick wall built to enclose premises which she owned. In order to do so she needed to hire a mechanical digger to dig the foundations. She telephoned Cowboy Contractors, a plant hire firm, who agreed to supply her with such a digger, together with Tony, its operator, subject to their normal terms and conditions. On the day arranged Tony arrived with the mechanical digger. He handed Julie a leaflet and a lengthy contract of hire. He then began work at once.

The leaflet described the services offered by Cowboy Contractors. It also contained the following:

' Cowboy Contractors accepts no responsibility for any loss or damage, howsoever that loss or damage may arise. Hirers are advised to insure against loss or damage caused to third parties by the plant hired.'

A clause of the contract provided:

'Drivers and operators shall be regarded as the servants or agents of the hirer, who shall be responsible for all claims.'

Tony was inexperienced, with no knowledge of operating the model of machine supplied. He negligently drove the machine into the side of Julie's building, demolishing the kitchen wall and breaking Julie's arm in the process. He then reversed the digger into Julie's neighbour Derek's, car, which was standing on his drive, causing considerable damage to the car.

Advise Julie and Derek on any claim they may have against Cowboy Contractors.

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2. “. . .whatever the nature of the harm sustained by the plaintiff it (is) necessary to consider the matter not only by enquiring about foreseeability but also by considering the nature of the relationship between the parties; and to be satisfied that in all the circumstances it was fair, just and reasonable to impose a duty of care.” per Saville L.J., Marc Rich & Co AG v Bishop Rock Marine Co Ltd [1996] AC 211; [1995] 3 All ER 307.

The court in this case was positing the idea that all damage in torts should be treated alike from the point of view of establishing a duty of care. Do you agree? Illustrate your answer with appropriate case law.

END OF QUESTIONS