

Kings University College, Ghana
Faculty of Law, Governance & International Relations

LLB

Law of Tort I

COURSE CODE: FLG 201

LEVEL 200:

8TH DECEMBER, 2022

END OF FIRST SEMESTER EXAMINATIONS

Time Allowed: 150 minutes (2.30 hours)

60% of Final Grade

LECTURER: SAMUEL OSEI-ATTAKORA

INSTRUCTIONS:

There are **SECTIONS A, B and C**

- Section A is multiple choice. Students are to answer **ALL** questions.
- Section B, answer all. Section C has got **THREE** questions, students are to answer **Question ONE and ANY other ONE**.
- All answers are to be written in the University Exam Booklet.
- Your approach must be analytical not descriptive. You must craft and defend arguments. Think carefully about the question before you start to write.
- No effort has been made to achieve legal verisimilitude, and laws that are included in questions should be considered accurate only hypothetically, and for purposes of answering the questions on this exam. Do not assume any additional fact or law, except those laws studied in the course, without stating explicitly your assumption and explaining why such additional information is necessary for your answer.
- Do **NOT** write your name anywhere on the exam paper. Only write your student number.

☺ **GOOD LUCK!** ☺

SECTION A: 20% Compulsory

Answer ALL questions

1. Which of the following is not a reason for the general lack of liability for omissions in English law?
 - A. Uncertainty about what constitutes an omission
 - B. Indeterminacy, for example 'why pick on me'?
 - C. The heavy burden it would put on the general public

2. Which of the following is not an exceptional situation in which there may be held to be liability for an omission?
 - A. The failure to remove a danger created by nature
 - B. A relationship indicating an assumption of responsibility
 - C. An obstacle on the highway of which the defendant was aware

3. Trespass to the person requires all of the following except:
 - A. False imprisonment
 - B. Land
 - C. Battery

4. Which of the following case laws is popularly known as 'the famous squib case'?
 - A. Scott v Shepherd [1773] 2 W. Bl 892
 - B. Tuberville v Savage [1669] 1 Mod Rep 3
 - C. Pursell v Horn [1836] 8 A & E 602

5. A wrongful and intentional use of the claimant's goods which infringes the claimant's right of use and possession of the goods is:
 - A. Detinue
 - B. Bailee
 - C. Conversion

6. Which of the following relations may give rise to vicarious liability?
 - A. Employer and employee
 - B. Teachers and pupils in their care during school hours
 - C. Vehicle owners and the GPRTU

7. Which of the following is a test that can be used to distinguish an employee from an independent contractor?

7. Which of the following is a test that can be used to distinguish an employee from an independent contractor?
- A. Control test
 - B. Economic reality test
 - C. Multiple test
8. Which of the following fall within the course of employment?
- A. Acts expressly authorized by the employer
 - B. Acts which are expressly prohibited by the employer that concern the manner in which the work is carried out.
 - C. Acts which amount to a breach of the criminal law if they are closely associated with the work that the employee is engaged to perform
9. In which case was it held that a driver who threw a lit of cigarette to the ground when he was refueling his lorry was within the course of employment thus giving rise to vicarious liability for the damage caused in the fire?
- A. Iqbal v London Transport Executive
 - B. Century Insurance v N1Road Transport Board
 - C. Beard v London Omnibus Company
10. Yaa Yaa built a fence on what she thought was the border between her property and her neighbour's property. The neighbour could hold Yaa Yaa liable for
- A. Nuisance
 - B. Trespass
 - C. Criminal damage
11. Agyemang bought a television that, unknown to him, was stolen. Agyemang refused to surrender the television until he was reimbursed the money he paid to the seller. Agyemang is liable for the tort of
- A. Trespass
 - B. Conversion
 - C. Fraud
12. Martin leaves his garbage in open containers, causing foul odors in his neighbourhood. This is an example of
- A. Trespass
 - B. Nuisance
 - C. Defamation

- A. Actual malice
- B. Strict liability
- C. Invasion of privacy

14. Serwaah threatened to hit Nti. If Serwaah did hit Nti and Nti suffered injury or damages, he could sue Serwaah for

- A. Assault only
- B. Battery only
- C. Assault and battery

15. A person accused of shoplifting was detained in a store for an unreasonable length of time, but a search revealed no evidence of shoplifting. The detained person can sue for

- A. Robbery
- B. False arrest
- C. trespass

16. A police officer wished to question a woman in relation to her alleged activity as a prostitute. The woman decided to walk away but the police officer was intent on stopping her and in order to do so, grabbed her arm in order to prevent her from walking away. Which of the following statements is NOT correct?

- A. The police officer had no power to detain the woman
- B. The woman can be charged with obstructing the officer from performance of his duty.
- C. The police officer was acting within the scope of his powers.

17. Which of the following can be considered as act of false imprisonment?

- A. Grabbing a person's clothing or arm in a manner which allows the victim to free himself
- B. Medicating someone without his consent in order to restrain him
- C. A storekeeper detaining a customer for a reasonable amount of time for questioning based on probable cause

18. All of the following need to be proved for malicious prosecution except:

- A. Malicious intention
- B. Damage to the defendant
- C. Prosecution by the defendant

19. Which of the following best describes a private nuisance?

19. Which of the following best describes a private nuisance?

- A. A neighbour who keeps a vicious dog
- B. An act that interferes with the comfort of the community
- C. Shooting fireworks in the streets

20. Which of the following case laws does not relate to nuisance?

- A. Christie v Davey [1893] 1 Ch 316
- B. Hunter v Canary Wharf [1996] 2 WLR 348
- C. National Coal Board v JE Evans & Co. Ltd [1951] 2 KB 861

Section B (10 Marks). Answer all questions

Explain briefly about (5-8 lines) the following case laws and their holdings

1. Haystead v DPP [2000] 3 All ER 690 *Blow the child*
2. Bird v Jones [1845] 7 Q.B. 742 *Bridge*
3. Bradford Corporation v Pickles [1895] A.C. 587 *water dug*
4. Ready Mixed Concrete Ltd v Minister of Pension [1968] 2 QB 497
5. Christie v Davey [1893] 1 CH 316

Section C

Question 1 (Compulsory)

Mr. Ashithey, a doctor, moved into a house at Kokomlemle in Accra two years ago. Soon he bought and built a shed in his garden to carry out his private practice within. His shed was on the boundary of the property and happened to be next door to Mrs Agyeiwaa, a confectioner. Mrs Agyeiwaa had produced sweets in her kitchen for many years before the doctor had moved in. The doctor alleged that the noise of Mrs Agyeiwaa grinding her pestle and mortar was clearly audible from her shed and that this disrupted his amenity in the form of his enjoyment of his land.

Advise the parties [15 Marks]

(Use IRAC to resolve this issue)

2. The tort of false imprisonment is too narrowly conceived; it should provide a general remedy for interference with freedom of movement. Discuss [15 Marks]

Question 3

- i. Gyimah and Addai had been drinking all day. They all reside at Atimatim, a suburb in Kumasi. Addai who is a driver suggested that they drive to a stadium to watch a match between King Faisal and Asante Kotoko in Kumasi. Gyimah agreed and Addai drove off. The car crashed shortly into a stationary truck which had loaded charcoals and parked at the side of the road. Addai was killed and Gyimah was seriously injured. Autopsy report revealed that Addai had consumed seven sachets of *totapack* before the incidence. Addai's family brought an action against Gyimah for the death of their relative.

Discuss the possible defence (s) available for Gyimah.

[9 Marks]

- ii. What are the general requirements for defences in tort?

[6 Marks]