

THE JOINT EXAMINATION BOARD

BASIC ENGLISH LAW

Wednesday 3 November 2004

3.00 p.m. – 5.00 p.m.

Please read the following instructions carefully. Time Allowed – 2 hours

1. The Candidates should **attempt four of the five questions from Part A and four of the five questions from Part B**. This paper consists of 4 sheets including this.
2. Each question in Part A carries 10 marks and each question in Part B carries 15 marks. Marks for sub-sections of a question in Part B are also indicated.
3. If five questions are answered in either Part A or Part B, they will be marked in the order presented and the fifth ignored.
4. Please note the following:
 - Start each question (but not necessarily each part of each question) on a fresh sheet of paper.
 - Enter the Paper Name (Law), the question number and your Examination Number in the appropriate boxes at the top of each sheet of paper.
 - Write on one side of the paper only, within the printed margins using a **BLACK** pen.
 - **DO NOT** use coloured pens or highlighters within the answers – they will not photocopy.
 - **DO NOT** staple or join pages together in any way
 - **DO NOT** state your name anywhere in the answers
5. **Unless specifically requested answers are NOT required in letter form.**
6. **NO** printed matter or other written material may be taken into the examination room.
ALL mobile phones and electronic equipment **must be** switched off and stored away.
7. Answers **MUST** be legible. If the examiners cannot read a candidate's answer no marks will be awarded.
8. **NO WRITING OF ANY KIND WILL BE PERMITTED AFTER THE TIME ALLOTTED TO THIS PAPER HAS EXPIRED.** At the end of the examination assemble your answer sheets in question number order and place in the **WHITE** envelope provided.
9. This paper consists of **four (4)** pages, including this page.

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Part A

1. Describe the functions and roles, if any, of the following people in defending a High Court action for Design Right Infringement:
 - a) Solicitor;
 - b) Barrister;
 - c) Jury;
 - d) Judge.

(10 marks)

2. Explain what is meant by:
 - a) Legal professional privilege;
 - b) Litigation privilege;
 - c) Without prejudice communications.

(10 marks)

3. Describe the differences between litigation and arbitration and the advantages and disadvantages of each.

(10 marks)

4. Identify and for each one explain with examples each of the four essential requirements necessary for the formation of a valid contract.

(10 marks)

5. Identify sources of English law and provide a concise explanation of three of the sources.

(10 marks)

Part B

6. a). Identify and describe with examples the different categories of evidence admissible at trial. (10 marks)
- b). Summarise the methods by which evidence may be presented. (5 marks)
(15 marks)

7. A local musician, Alice, singing her own composition is overheard by Pete, a famous record producer. Pete offers to buy the song, the copyright and all rights in it for £5,000. Alice accepts the offer. Pete pays cash but Alice does not provide a receipt.

Later that week Pete, whilst attending a local recording studio, overhears Alice recording the same song. He demands that she stop playing it. Alice refuses saying that she owns the copyright and has just spent the £5,000 recording it so that she can release the record at the end of the week. Pete is very concerned because his new boy band have just recorded the same song and are about to be launched the following week.

- a) **What rights, if any, does Pete have in the song?** (5 marks)
- b) **What legal steps, if any, can Pete take to improve his position and prevent Alice from releasing the song?** (10 Marks)

(Note You are not expected to discuss the merits or basis of a copyright infringement action.)

(15 marks)

8. Richard and Jason decide to take a road trip around England in Richard's old car. However, not five minutes out of their village Richard drives the car into a ditch at speed causing Jason to suffer a broken leg.
- a) **What would Jason need to prove in order to obtain compensation from Richard?** (8 Marks)
- b) **Would it make any difference either to Jason's claim or his damages if:**
- i) **at the time of the crash Jason had undone his seatbelt and tried to climb into the back of the car to get his mobile telephone?**
 - ii) **Jason was a professional footballer?**
 - iii) **Jason also complains of a stiffness in his neck like whiplash which is similar to the sprain he suffered the previous week during a match.** (7 Marks)

(15 marks)

9. Bernard, a celebrity chef, is the major shareholder in an established Michelin starred restaurant in London frequented by many celebrities and with a three-month waiting list. His restaurant is particularly famous for its "Blackened Steak" dish, with the source of the beef being a closely guarded secret but widely advertised as exclusive to Bernard's restaurant.

The Restaurant Group plc, decide to open a steak house close by called "Steak Bar" and want to advertise their signature dish called the "Charcoal Blackened Steak". The Restaurant Group have started to run a series of advertisements in the London press as follows:

- Advert 1** "Eat the Charcoal Blackened Steak at Steak Bar. No three month waiting list unlike Bernard's"
- Advert 2** "Eat the Charcoal Blackened Steak at Steak Bar. No three month waiting list, fresher steaks and better value for money than expensive Bernard's"
- Advert 3** "Eat the Charcoal Blackened Steak at Steak Bar. Avoid the three month waiting list and donkey meat they pass off as steak at Bernard's"

- a) **Bernard is angry and he seeks your advice as to what, if any, grounds for legal action he has in respect of each advertisement. (10 marks)**
- b) **Would it make any difference to your answer if:**
- (i) **the Restaurant Group believed the advertisements?**
 - (ii) **The advertisements were still in draft and had not been printed?**
- (5 marks)*

(Note For the purposes of this question you are not expected to advise on any trade mark or passing off issues.)

(15 marks)

10. In the Civil Procedure Rules:

- a) What is meant by the Overriding Objective and what obligations does it place on the court user and the Court? *(9 Marks)*
- b) Identify each of the three "tracks" to which cases may be allocated and for each one briefly explain the effects of each track on a case. *(6 Marks)*

(15 marks)