

COLLEGE OF LAW  
BOWEN UNIVERSITY, IWO, OSUN STATE  
FIRST SEMESTER EXAMINATION, 2023/2024 SESSION  
COURSE CODE: PCL 303 COURSE TITLE: LAW OF TORTS I

**INSTRUCTIONS**  
ATTEMPT FOUR QUESTIONS IN ALL, INCLUDING AT LEAST ONE  
QUESTION FROM EACH SECTION

EACH QUESTION CARRIES 17 ½ MARKS

TIME ALLOWED: 3 HOURS

**Section A**

1. Tokunbo hired a driver to operate a delivery van for his fast-food business. before allowing the driver to drive the van, Tokunbo checked the driver's prior job records, which required undergoing a physical examination by a medical doctor. He also provided the driver with extensive training in motor vehicle safety. Dr. Frank, who examined the driver, discovered that the driver had a sleep disorder that caused the driver to spontaneously fall asleep, and he, had on several occasions, fallen asleep while driving. The driver pleaded with Dr. Frank not to inform his employer of the sleep disorder, and Dr. Frank omitted the fact in the physical examination report sent to the employer. Instead, his report read that the Driver was "in all respects fit for employment as a delivery van driver." While driving the van, the driver slept off, the van veered off the road and hit a pedestrian, who suffered severe injuries. The pedestrian has a filed an action for damages against the driver, Tokunbo his employer, and Dr. Frank as a result of the injuries sustained in the accident.

**Make an argument in support of the pedestrian's case.**

2. The courts have technically been very cautious about awarding damages for non-physical harm to the person due to some reasons. However, with gradual recognition of the genuine nature of psychiatric harm to the claimant, the courts gradually abandoned the 19<sup>th</sup> century position of non-recognition of non-physical harm to a person and gradually began to award damages for what was for many years called nervous shock. **Discuss**

**Section B**

3. Crista International School organized an excursion for its Primary 3 pupils to visit the Central Park, Oshogbo. That day, Tabs, the class teacher, led the pupils to the park, and they were heartily welcomed by the manager, Halleluyah. After exchanging some pleasantries with the pupils, Halleluyah conducted them round the premises. During the excursion two of the pupils, Ben and Zayad, slipped away from the group to play hide and seek in a brightly painted but abandoned old station wagon in the premises, which had earlier caught their fancy. Suddenly, a loud scream emanated from Ben and this caused panic. It was then the pupils were discovered to be missing from the group. They all ran in the direction of the scream and found Ben looking pale and lying unconscious in a pool of blood in the station wagon, while Zayad was obviously in a shock. The children were rushed to a nearby hospital where it was revealed that Ben was attacked by



a wild dog in the premises, which caused a shock to Zayad who had witnessed it. Crista International School has decided to sue the park authority and has come to you for advice on the likelihood of the success of the suit.

**With the aid of judicial and statutory authorities, advise the school.**

- 4a. Doctor owns a mower which he usually rents out. One day his close pal, Jesutomi, requested for it to mow his compound and promised to return in two days' time, which Doctor agreed to. After a week, Jesutomi failed to return the mower, and when Doctor demanded for it, Jesutomi told him that he was still making use of it. Three weeks later, Doctor was on his way to church when he noticed a mower being used to mow some a lawn by the road side. On a closer look, he discovered that the mower was the one his pal, Jesutomi, borrowed from him about three weeks ago. He immediately went to Jesutomi's house and requested him to accompany him somewhere. On arriving at the spot, Doctor asked why his mower was being used there. He then discovered that Jesutomi had rented the mower out at a profit without informing Doctor. Right there, Doctor demanded for the mower but Jesutomi promised to hand it over to him the next day. When he did not see him the next day, Doctor went to his house to recover the mower but to his dismay, he was informed that Jesutomi had travelled very early in the morning. Doctor is infuriated and has come to your law firm to ask for an advice on his rights against Jesutomi. **Advise Doctor.**
- 4b. With the aid of relevant judicial authorities, identify the legal issues in the following:
- (i) Ladi rained abuses on Tobi and threatened to beat her up without any provocation.
  - (ii) Sunmi and Claire had an altercation over some dirty plates left in the sink. Claire got angry and held Sunmi's blouse, while Sunmi also held Claire's skirt.
  - (iii) The stylist put some colouring on Favour's hair without her consent.
  - (iv) After the party, Jason refused to leave the premises after being told to leave thrice.
  - (v) During a meeting meeting, Sonia was asked to leave due to her rudeness. She refused to obey, which prompted Jesse to lock her up in the basement of the venue for thirty minutes.

### Section C

5. On the 10<sup>th</sup> of January 2024, Mr. Joshua Odunla, Mr. Jacob Popoola, and Mr. Biola Ogunde, servants (employees) to Light-Well Gas Company Nigeria Limited of No 25 Industrial Layout, Ibadan, Oyo State, were delivering gas cylinders to Mr. Innocent Awosika's home in the Owode area of Osogbo. While Mr. Joshua Odunla and Mr. Jacob Popoola were unloading the gas cylinders, one of the cylinders caught fire from a lighted firework in the hand of Mr. Biola Ogunde. The resultant explosion and fire from the fireworks destroyed Mr. Innocent Awosika's house. Mr. Innocent Awosika intends to institute a legal action against Mr. Biola Ogunde and Light-Well Gas Company Nigeria Limited. On the 15<sup>th</sup> of January 2024, during the company's visit to Mr. Innocent Awosika's house to verify the level of damage he had suffered, Mr. John Kulman, the company's Managing Director, stated as follows:
- You are free to sue Mr. Biola Ogunde for the damage he has caused you. The company has no hand in what has happened to you. Our company did not specifically instruct Mr. Biola*



Ogunde to engage in any action to destroy your house. *Therefore, the company will never bear responsibility and, in strong terms, will refuse any liability for the negligence of Mr. Biola Ogunde. The company, however, sympathises with you for the destruction of your house.*

Due to the statement of Mr. John Kulman, the company's Managing Director, Mr. Innocent Awosika is now confused as to whether or not to include Light-Well Gas Company Nigeria Limited in his suit (legal action) to recover damages for the destruction of his house. Mr. Innocent Awosika is on visit your Law Office of *Smart Minds Solicitors* of No. 7 Kingsway Road, Osogbo, Osun State.

**With the aid of statutory and judicial authorities, advise Mr. Innocent Awosika.**

6. The classification of torts helps to ensure a better understanding and study of the law of torts as a whole by putting it in a better perspective. It also helps those in the law field to know the relationship between various torts. In addition, torts are classified according to the kind of rights or interests that they protect. **Discuss.**