

3<sup>e</sup> année licence DROIT

## **DROIT ANGLAIS DE LA RESPONSABILITE**

Durée de l'épreuve : 1 heure.

SUJET SUR 4 PAGES

Document autorisé : NEANT.

**NOM et Prénom de l'étudiant :**

**(TAKE CARE: There might be MORE THAN ONE CORRECT ANSWER!)**

**1. D's liability for Third Parties' acts and/or omissions may be engaged if : (/1)**

- (a) D failed to supervise TP ;
- (b) It is only engaged for TP's acts ;
- (c) It is only engaged for TP's omissions ;
- (d) There was sufficient proximity between C and D ;
- (e) D owed a duty of care towards TP.

**2. The foreseeability criteria is relevant for : (/1)**

- (a) Discovering whether a duty of care exists
- (b) The recovery of pure psychiatric injury
- (c) Assessing whether the causation in fact is achieved (intervening acts not included)
- (d) Assessing whether the causation in law is achieved
- (e) The *Rylands v/Fletcher* regime

**3. Please explain why the british regime regarding injunctions is very strict. (/3)**

4. What does the case '*Wilkes v DePuy International Ltd (2016)*' tell us regarding the product liability regime ? (3)

5. Why are policy reasons so important in English tort law ? Explain and give a concrete example (3)

6. What would a specific tort of invasion of privacy as such add to the current regime ? (3)

**7. Please answer the following questions in order to solve the case (/6)**

Fatima is a student at University who believes to be sexually harassed by one of the lecturers, Omar. She writes a letter, addressed to all the governors and lecturers at her University, which states : 'Omar sexually harasses female students'. Fatima takes the letter to the public library to make 200 copies. Mistakenly she leaves the original letter in the photocopier where it is found by Nosey who posts it anonymously to Omar's wife. Fatima sends copies of her letter to every governor and lecturer at University, using the internal post. Each letter is marked 'confidential'. Two days later, one of these letters is found pinned to a noticeboard in the students' common room. Omar denies the allegation of sexual harassment.

**What causes of action can Omar use ? against who ? (/1)**

**Omar would need to prove (/1)**

- (a) Fatima's negligence
- (b) He has suffered a 'special loss'
- (c) The statement referred to him
- (d) A real and substantial tort/harm
- (e) The statement was published to a third party

**The words, to be qualified as defamatory, (/1)**

- (a) Need to be true,
- (b) Must lower C in the estimation of right thinking members of society
- (c) Can result from raised passions or anger
- (d) Affect the reputation only in the eyes of C

**The « single publication rule » (/1)**

- (a) Is irrelevant because Nosey broke the chain of causation
- (b) Is relevant because the two publications are not materially different
- (c) Is less generous to C
- (d) Means that for each publication there exists a separate tort and a separate damage

**Fatima could probably successfully raise the following defence(s) (/1)**

- (a) Honest opinion
- (b) Truth
- (c) Innocent dissemination
- (d) The Reynolds defence
- (e) Contributory negligence
- (f) None of them

**In this case, Omar could allege that (/1)**

- (a) The college authorities should have removed the copy
- (b) The College authorities are responsible for publication as a primary publisher
- (c) The College authorities should have sued Fatima in justice

**8. BONUS QUESTION : (/2)**

One of your classmates had to undergo a surgery at the Hospital in London. The London Hospital, a private Clinic, used a robot - the NAVIO – to conduct the precision knee surgery she needed. The centre is made up of robotics surgeons, anaesthetists and a specialised nursing team. Unfortunately, the operation went wrong and your classmate now suffers from leg paralysis. She comes to see you to require legal advice. Considering the current tort law regime, what causes of action would be available ? against who ?