

Question 18: A worker C died at 58 of lung cancer. His first employer A had exposed him to asbestos during 23 years and his second employer B. had imposed him to share his office with a heavy smoker who was smoking in the work place all day long, in spite of C's otherwise request.

- A If he sues B., C has to prove that the exposure to tobacco has materially increased the risk of harm occurring
- B The burden of the prove of the breach of the duty of care bears on C
- C C. has to prove that A and B have a duty of care towards him
- D There is a causal link between exposure to risks and developing a cancer
- E The but for test can be applied

Question 19: The defendant, after a dispute with a neighbour built a rough 'wall' of rubbish on his property, to stop the claimant from using it as a path to get to his own land. After a while being out in the elements, some of the rubbish was displaced by the wind, and rolled down a hill onto the claimant's land. This can constitute:

- A a trespass to land
- B a battery
- C an abatement
- D a private nuisance
- E a public nuisance

Question 20: A man entered his neighbour's land to cut the overhanging branches of his neighbour's tree and, in a fit of rage, let finally only a trunk. This behaviour can be analysed as...

- A a trespass to land
- B a battery
- C an abatement
- D a nuisance
- E a harassment

Question 21: The 20 years prescription plays in...

- A negligence
- B public nuisance
- C private nuisance
- D defamation in Victoria (Australia)
- E defective products liability

Question 22: A person who nowadays may find a snail in an offered drink and may get therefore injured could successfully sue the manufacturer on the ground(s) of:

- A only negligence, based on the neighbour principle
- B only negligence based on the Caparo test
- C negligence and defective product liability
- D only defective product liability
- E defective product liability and battery

Question 23: prohibitory injunctions are rarer than mandatory injunctions

- A Yes
- B No

Question 24: the current rules about the establishment of a duty of care in negligence come from the...test:

- A Bolam
- B Campbell
- C but for
- D Caparo
- E fourtitude

Faculté de droit
de sciences politiques
et de gestion

Mme PIERRE-MAURICE

Université
de Strasbourg

Session JANVIER 2022

3^e année licence droit

DROIT ANGLAIS DE LA RESPONSABILITE

Durée de l'épreuve : 1 heure.

SUJET SUR 4 PAGES

Number of questions: 24
One proposal minimum is correct
Several correct answers are possible (the 5 may be all correct), depending on the questions
all correct answers = 1 point
1 or several correct answer(s) is (are) missing (on the 4 expected f. ex) = 0
No negative point if it is wrong
Please, respect carefully the instructions!

Question 1: A Professor who keeps her students 10 mn beyond their work schedules is liable of...

- A false imprisonment
- B nuisance
- C assault
- D harmful negligence
- E nothing at all

Question 2: Statute law governs ...:

- A the tort of negligence
- B the tort of defamation
- C the tort of trespass to goods
- D some defences in negligence and false imprisonment
- E defective products liability

Question 3: The standard of a "reasonable person" is used in tort law for different purposes, such as ...:

- A. to determine the conditions to sue for victims of psychiatric injuries
- B to determine the conditions to sue for victims of economic losses
- C to determine the conditions to sue in nuisance
- D to define the expectations of a consumer towards a product

Question 4: Lord Justice Denning is famous for ...:

- A the neighbour principle
- B the but for test
- C the definition of contributory negligence
- D the definition of common nuisance
- E the Caparo test

Question 5: The main differences between English and French tort law lay in:

- A the use of test and percentages
- B the predominant role of case law
- C the mitigation principle
- D punitive damages
- E defective product liability

Question 6: The main striking differences between English and Australian tort law lay in:

- A the modalities to establish a duty of care
- B the tort of defamation
- C the use of restatements
- D the scope of intentional torts
- E defective products liability

Question 7: Employers assume vicarious liability... :

- A because they have exposed their employees to asbestos
- B when their employee caused a damage to a third party during their working schedule while they were executing an express order
- C when some workers working for the employer, free in their working behaviour and owning their own tools and devices, caused a damage to another person during their task
- D when their employee caused a damage to a third party during their working schedule
- E when their employee's action was outside of their employment responsibility but to help the employer

Question 8: Economic loss and psychiatric injuries follow the same set of rules

- A Yes
- B No

Question 9: Harm is always a condition to sue in tort of ...:

- A negligence
- B defective products
- C trespass to goods
- D trespass to land

Question 10: as a wedding present, John and Mary were given a first dive in Blakeney Point, a famous spot in the UK to see a colony of seals frolicking in the sea. Each of them was supervised by a skilled diving instructor and both dived in the same time to share this unforgettable experience. As they were at 5 meters, maximum depth for a first dive, John panicked when seeing a harmless shark and moved a lot, so that his instructor could not catch him anymore and was unable to empty his jacket, full of air. John then came into the surface like a balloon and unfortunately, a boat was passing by at that moment and his head was cut off by the boat's propeller, to Mary's horror.

- A John was the primary victim
- B Mary, as the secondary victim, can sue the diving instructor for negligence, the diving instructor's employer for vicarious liability and the driver of the boat for negligence
- C Mary has to prove that the 3 tortfeasors have a duty of care towards her
- D Mary, the widow will be able to be compensated of her psychiatric injury as she can prove a causal link and she could witness the scene with her own unaided senses
- E. Mary must medically establish her trouble

Question 11: The scope of English tort law is larger than the scope of French tort law

- A Yes
- B No
- C It depends
- D Maybe
- E I don't know

Question 12: Peak District is well known in the UK in the climbing world to be a great, hard but dangerous climbing spot as the cliff is absolutely not bolted and those who want to climb the cliff need to put their own equipment into the rock, that is to say friends (*coinceurs*) into the crag.

Craig and Nicos, 2 English 25-year-old friends with a great climbing level decided to climb a very difficult and unbolted route. While climbing, Craig fell and got injured. Crippled, he cannot practice his passion anymore. He wants to sue the council, owner of the cliff, claiming the cliff is a defective product and the council was negligent not to prevent climbers to climb on it.

- A the claim in defective product is deemed to be successful as the lack of any bolt in the cliff consists indeed in a safety defect
- B Craig has to establish that the four conditions in negligence are met (duty of care, breach, remoteness, causation)
- C The council can nevertheless successfully present a *volunt non fit injuria* defence as, despite of any prohibition sign to climb in the area of the cliff, the knowledge of the danger is obvious as the climber as to personally set up his own protection gear (*friends*) to climb.

Question 13: A journalist entered illegally Mary Linmonrow's home and took illegally photos of the celebrity. He revealed in an article the pregnancy of Mary Linmonrow and then her abortion in a Liverpool clinic. "She killed her baby in cold blood" was the title of the article. Knowing that, Nelcha, the famous perfume brand put an end to an expansive endorsement contract with Mary. Mary can sue successfully the press owner in...

- A breach of confidence
- B libel
- C slander
- D breach of the Human right act
- E nuisance

Question 14: Punitive damages...

- A are not easily granted
- B may be granted as the sole kind of damages to complete an injunction
- C are recognized by French and Chinese law
- D can be maximum 10 times higher than the amount of compensatory damages
- E are granted in negligence and contract law

Question 15: In a cafe, Judy met Josh, a singer who invited her to attempt to see his concert that very evening. It was great. The music was good but at one moment, the stage, which was incorrectly fixed by René, the employee in charge of the equipment of the concert hall, collapsed and Josh got badly injured. Since then, Judy, who was in love with Josh, had bad dreams every night.

- A Josh, primary victim, can sue René for negligence
- B Josh, primary victim, can sue René's employer for vicarious liability
- C Judy, as a secondary victim, can prove a spatial and temporal proximity
- D Judy, as a secondary victim, had a direct perception of the event causing a harmful negligence
- E Judy, as a secondary victim, will be compensated for her psychiatric injury

Question 16: Tyson entered Victor's land without any permission, didn't ring the bell and stepped to get over the fence. He was welcomed and severally bitten by Rover, the faithful dog. He sued Victor in negligence, saying that such a dangerous animal must be leashed and muzzled.

- A Tyson has to prove the existence of a duty of care between neighbours
- B Tyson has to prove the breach of a duty of care thanks to the normal standard
- C Tyson committed a trespass to land
- D Victor can present an *ex turpi causa non oritur actio* defence
- E Tyson can be granted aggravated damages

Question 17: A privilege is granted against a claim of defamation to... ?

- A members of the House of Lords (English parliament)
- B members of the House of Commons (English parliament)
- C attorneys
- D High court Justices
- E pregnant women