



Aspley State High School

Business & Information Technology Faculty

Year 11 Legal Studies

Non-Written Presentation *Civil Obligations - Torts* Instrument Number 4

Student's Name: _____

Semester 2, 2009

Form Class: 11 _____

Time: 3 Weeks

Assessment Type: Formative

Legal Studies Teacher: Mr Thistlethwaite

Draft Due Date: Week 8 (2nd September 2009)

Presentations Begin: Week 9 (9th September 2009)

Task:

This assignment will involve:

1. Choosing one of the scenarios listed below
2. Adopting an appropriate persona
3. Using approx **two weeks** of class time (and your own time) to research and plan your case
4. Presenting the case to the class in the form of a **non-written presentation**
5. Communicating with your peers and teacher in an **interesting, informative and interactive manner for 5-8 minutes**.
6. You will be expected to submit: this assignment sheet (including completed research notes), a full script of your presentation, a full bibliography, and printout of all aids used.

In accordance to the Student Work Ethic Policy, students will be required to hand in at least two A4 pages of relevant research log and a script, and complete a 4 minute presentation. Failure to do so will result in action under this policy.

Criteria	A	B	C	D	E
Knowledge & Understanding					
Investigation					
Evaluation					
Communication & Research					

see Criteria sheet for detail

Comment: _____

Teacher's Signature: _____

/ /2009

The Persona

You are to adopt the persona of one of the following within your chosen scenario:

1. A solicitor advising the plaintiff/defendant
2. A barrister for the plaintiff/defendant summing up his case before a trial judge
3. A judge (original jurisdiction or appellate) delivering his/her judgement.

You will be expected to address these issues.

The **solicitor** should:

- Explain the type and nature of the relevant tort
- Explain the processes involved in bringing an action to court
- Explain the legal principles involved
- Explain any relevant defences
- Illustrate the above explanation with synopses of appropriate precedents
- Evaluate and justify your client's chances of success/failure in court (referring to relevant precedent)
- Suggest legally appropriate form(s) of redress/compensation and justify your reasons.

(This situation will require a "client" who asks some relevant questions/makes appropriate comments. **Only the solicitor (author of the script) will be assessed. This is not a group activity.**)

The **barrister** should:

- Sum up the relevant facts of your client's case. (You are free to add details to the basic scenario-provided that the core elements remain the same.)
- Explain the type and nature of the relevant tort
- Explain the legal principles involved
- Explain any relevant defences
- Refer to relevant precedents
- Evaluate your client's claims and justify why they are the only legally valid and fair interpretation of both the facts of the case and the law
- Demand a form of justice for your client (appropriate redress/ compensation-if applicable) and justify your reasons.

The **judge** should:

- Sum up all of the alleged facts
- Address the points of conflict between the plaintiff's and the defendant's versions, and arrive at what you believe to be the truth
- Explain the nature and type of the relevant tort
- Explain the legal principles involved
- Explain any relevant defences
- Refer to relevant precedents
- Through evaluation arrive at a fair and legally valid resolution of all the points of conflict
- Order appropriate form(s) of redress/compensation – if applicable and justify your reasons.

The Cases

CASE 1:

MENZIES v WATERS

Nick Menzies, a Brisbane Accountant, was on his way home from work on 18 May 2006 when he was involved in an accident with a car driven by Debbie Waters. The police charged Debbie with dangerous driving and the court found her to be the sole cause of the accident. Nick was taken by ambulance to the Royal Brisbane Hospital with serious injuries.

Two police officers went to Nick's home, gave the news to his pregnant wife and took her to see Nick in casualty. She saw her husband in severe pain and a doctor told her that Nick was 'pretty bad'. After staying with friends that night, she was called to the hospital in the morning and saw Nick with 'all these tubes coming out of him'. She said in evidence that at the time she was 'scared that he was going to die and that all my security had been washed down the drain'.

Four weeks later, Mrs Menzies was advised by doctors that Nick would survive. However, after her experience at the hospital, Mrs Menzies suffered anxiety and depression which led to her miscarrying her baby.

CASE 2:

McSTAGGER v GRAPE BROTHERS FRUIT SHOP

Barry McStagger had spent his Saturday having a few drinks and a few bets at his local pub, the Drunken Sailor. At about 3:00pm, Barry left the pub and was walking home. On his way, Barry stopped in at a greengrocer, Grape Brothers Fruit Shop, to grab a few items.

After a busy day, the greengrocer just cleaning up for the day, and the concrete floors had a scattering of fruit and water. The owner, Jerry Grape, told Barry to "Be careful", as he entered the store.

As Barry rounded one of the aisles, he slipped on a lettuce leaf and fell to the ground. On landing, Barry broke his wrist, requiring him to be transported to hospital and having his wrist plastered. Barry had to have six weeks off work, as he was a bricklayer, and eight months later, he still suffers from pain in his wrist.

CASE 3:

BIRD v LOFTY LODGE FUNERAL HOME

Ms Lucy Bird's mother died after a long battle with cancer. Lucy does not have any siblings and her father died many years before. Lucy chose the Lofty Lodge Funeral Home because it was cheap and close to her home.

The funeral home was instructed to organise the funeral and cremation of Lucy's mother, at a cost of \$4,500. All went according to plan, and Lucy was given an urn containing her mother's ashes, a week after the funeral.

Three months' later, whilst vacuuming, Lucy knocked over the urn and it crashed to the ground. Surprisingly to Lucy, the urn contained what appeared to be mixed nuts. She had the contents examine by a pathologist, who confirmed that the urn did indeed only contain mixed nuts.

On investigation, it was discovered that Lofty Lodge had occasionally placed a packet of mixed nuts in the urns, instead of the cremated remains. The owner of the funeral home said that he only did it when he was really busy, and that it didn't really matter, as long as no-one found out.

CASE 4:

AVERAGE v BIG X SUPERMARKET PTY LTD

Mrs Sally Average was driving into the car park of Big X Supermarket Pty Ltd. After alighting from her vehicle she attempts to make her way into the shopping complex, but was knocked over by a "trolley train" being pushed by a 15 year old trolley collector, Eric Cretin, at an excessive speed. Mrs Average breaks her hip as a result of her fall onto the asphalt surface of the car park. Medical treatment will involve surgery followed by extensive physiotherapy. Her doctors advised her that she is unlikely to be able to resume her job as a retail sales assistant for at least six months.

Big X Supermarket Pty Ltd owns the car park, but Eric Cretin is actually employed as a casual employee by Shift-Em-Quick Pty Ltd, a shopping trolley collection company under contract to the Big X Supermarket. Eric has frequently been reprimanded for his careless and irresponsible attitude to his work.

Criteria Sheet:

Knowledge and Understanding	Standard A	Standard B	Standard C	Standard D	Standard E
<ul style="list-style-type: none"> • <i>make statements</i> of specific knowledge based on recall and/or research • <i>describe and explain</i> key legal concepts including structures, processes and principles 	<ul style="list-style-type: none"> • Effective and specific knowledge of the law as it applies to the case and the processes involved • Effectively describes and explains relevant elements of specific tort, defences and underlying principles 	<ul style="list-style-type: none"> • Effective knowledge of the law as it applies to the case and the processes involved • Effectively describes and explains relevant elements of specific tort and defences 	<ul style="list-style-type: none"> • Adequate knowledge of the law relating to case • Adequately describes and explains relevant elements of specific tort and defences 	<ul style="list-style-type: none"> • General knowledge of the law relating to the case • Able to describe and explain elements of specific tort 	<ul style="list-style-type: none"> • Some knowledge of the law relating to the case • Some description of tort law
Investigation	Standard A	Standard B	Standard C	Standard D	Standard E
<ul style="list-style-type: none"> • <i>select and apply</i> relevant legal principles and procedures 	<ul style="list-style-type: none"> • Effectively selects and applies relevant tort elements to obtain a correct legal outcome for the case, and relevant defence 	<ul style="list-style-type: none"> • Effectively selects and applies relevant tort elements to obtain a legal outcome for the case, and relevant defence 	<ul style="list-style-type: none"> • Adequately selects and applies relevant tort elements to obtain a legal outcome for the case, and relevant defence 	<ul style="list-style-type: none"> • Generally selects and applies relevant tort elements to obtain a legal outcome for the case 	<ul style="list-style-type: none"> • Selects and applies tort elements to obtain an outcome for the case

Evaluation	Standard A	Standard B	Standard C	Standard D	Standard E
<ul style="list-style-type: none"> • <i>draw conclusions</i> about the suitability of legal outcomes and their social implications 	<ul style="list-style-type: none"> • Effectively draws a conclusion as to the result of the case and, with justification, offers fair and legally valid reasons 	<ul style="list-style-type: none"> • Effectively draws a conclusion as to the result of the case and attempts to justify fair and valid reasons 	<ul style="list-style-type: none"> • Adequately draws a conclusion as to the result of the case and offers reasons 	<ul style="list-style-type: none"> • Adequately draws a conclusion as to the result of the case 	<ul style="list-style-type: none"> • Draws a conclusion as to the result of the case
Communication and Research Skills	Standard A	Standard B	Standard C	Standard D	Standard E
<ul style="list-style-type: none"> • <i>plan and implement an effective research process</i>, accessing a variety of relevant sources • <i>organise and present information effectively</i>, using written and non-written formats which are grammatically and technically correct • <i>use legal and law-related terminology, definitions and documents</i> proficiently • <i>use appropriate modes, forms, and styles of communication</i> within a variety of conditions, situations and contexts. 	<ul style="list-style-type: none"> • Effective research with a wide variety of relevant sources • Clear, concise and fluent organisation and presentation of information • Proficient use of legal and law related terminology, definitions and documents • Proficiently adopts the relevant persona 	<ul style="list-style-type: none"> • Effective research with a mostly relevant sources • Clear and concise organisation and presentation of information • Correct use of legal and law related terminology, definitions and documents • Effectively adopts the relevant persona 	<ul style="list-style-type: none"> • Adequate research with a some useful sources • Organisation and presentation of information with some clarity • Use of legal and law related terminology, definitions and documents, with some inconsistencies • Adopts the relevant persona 	<ul style="list-style-type: none"> • Some use of a research process • Presentation of some information • Some use of legal and law related terminology, definitions and documents inconsistencies • Some adoption of the relevant persona 	<ul style="list-style-type: none"> • Location of some information • Presentation of some information

Research Log:

(print off more pages from g:\ or internet link if required)

Topic	Source	Information
Example 1: Common Law	Gray, A. & Herlihy, G. (1998). Legal Studies in Action 1, Jacaranda, Milton.	Law made by judges (page 57).
Example 2: Statute Law	Qld Police Service (2008). <i>What is Statute Law?</i> www.qps.qld.gov.au/statute Accessed 23/6/2008	Describes the process and principles underpinning statute law in Qld.

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