



## FACULTY OF BUSINESS

### FINAL EXAMINATION

Student ID (in Figures) : 

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

Student ID (in Words) : \_\_\_\_\_  
 \_\_\_\_\_

Course Code & Name : **LAW1523 LEGAL ASPECT FOR HOSPITALITY & TOURISM**  
 Trimester & Year : January – April 2024  
 Lecturer/Examiner : Ms Amalina Mustaffa  
 Duration : 3 Hours

---

#### **INSTRUCTIONS TO CANDIDATES**

1. This question paper consists of:  
 Part A: 60 marks : THREE (3) structured questions. Answer ALL questions.  
 Part B : 40 marks : THREE (3) Essay questions. Answer only TWO (2) questions.  
 All answers must be written in the answer booklet(s) provided using ENGLISH LANGUAGE only.
2. Candidates are not allowed to bring any unauthorized materials except writing equipment into the Examination Hall. Electronic dictionaries are strictly prohibited.
3. This question paper must be submitted along with all used and/or unused rough papers and/or graph paper (if any). Candidates are NOT allowed to take any examination materials out of the examination hall.
4. Only ballpoint pens are allowed to be used in answering the questions, with the exception of multiple choice questions, where 2B pencils are to be used.

**WARNING:** The University Examination Board (UEB) of BERJAYA University College regards cheating as a most serious offence and will not hesitate to mete out the appropriate punitive actions according to the severity of the offence committed, and in accordance with the clauses stipulated in the Students' Handbook, up to and including expulsion from BERJAYA University College.

**Total Number of pages = 6 (including the cover page)**

**PART A : THREE (3) STRUCTURED QUESTIONS (SHORT ANSWERS)**

**INSTRUCTION(S) : ANSWER ALL QUESTIONS.**

**(60 MARKS)**

---

**Question 1**

Le Mon was on his way home from his office. He was looking forward to celebrate his birthday with his wife Le Min. Le Mon had made a dinner reservation at Hotel Gala at 7.00 p.m that night. Around 6.00pm, Le Mon arrived at a junction, Ji Man – a college student who was driving at high speed collided with Le Mon’s car, injuring him.

- a. Identify the wrongful act that has been committed by Ji Man (1 mark)
- b. Explain the elements necessary to prove Ji Man’s liability for the wrongful act contemplated in question (a). (14 marks)
- c. What remedy would Le Mon be seeking from the court and why? (2 marks)
- d. Assume that at the time of the accident, Le Mon was not wearing a seat belt. Would this fact affect the judgment of the judge and why? (3 marks)

**Question 2**

- a. Define partnership. (1 mark)
- b. In relation to partnership, state the legal principles concerning the following: (10 marks)
  - i. the minimum and maximum number of partners in the firm
  - ii. whether a written partnership agreement is necessary
  - iii. registration of the firm if necessary
  - iv. each partner’s liability for debts
  - v. whether the partnership is a legal entity
- c. Describe **THREE (3)** ways in which a partnership may be dissolved. (9 marks)

**Question 3**

On 14 February 2024 at 11.00am, a team of health officers lead by Dr. Srii arrived at the Capital Plate Restaurant. The restaurant only sells cooked seafood dishes such as fish, crab, eel and prawns. Simon Lee, the owner of the restaurant was also there. He was having his breakfast - *nasi lemak* which he bought from Sally’s stall next door. Dr. Srii showed her authorization cards and informed Simon Lee that they will proceed to inspect the restaurant’s kitchen, utensils, refrigerator, raw food stuff, as well as cooked food due to reports made by 11 customers. In the report, they claimed that they had eaten at the restaurant prior and suffered from food poisoning. Some of them were even hospitalized.

The health officers team took food samples and insisted on taking three meat grinder with them. The health officers also asked Capital Plate employees various questions without Simon Lee permission.

The health officers said that the restaurant would be fined, since most of the employees have not undergone the 'cleanliness training.'

One of the health officer – Dr. Sham saw a *halal* logo displayed near the cashier. When asked by Dr Sham whether the restaurant has the permission to display the *halal* logo in the premise, Simon Lee answered that he did not think that seafood dishes could be non-halal and therefore had not bothered to obtain the *halal* certification. Simon Lee also explained to Dr Sham that he printed the *halal* logo himself.

**Answer the following questions with specific provisions in the Food Act 1983.**

- a. Who were those the health officers? Are they allowed to inspect Capital Plate Restaurant? (2 marks)
- b. Did the officers have the power to take food sample and the meat grinder? (6 marks)
- c. Were the officers allowed to question the employees? (4 marks)
- d. What was the 'cleanliness training' referring to? (2 marks)
- e. Discuss the status of *halal* logo used by Capital Plate Restaurant. (6 marks)

**END OF PART A**

**PART B : THREE (3) ESSAY QUESTIONS. EACH QUESTION CARRIES 20 MARKS.**  
**INSTRUCTION(S) : ANSWER ONLY TWO (2) QUESTIONS. (40 marks)**

---

**Question 1**

Innkeepers such as hotels, motels, resorts, bed and breakfast (B&B) and certain homestays run establishments that offer accommodation for money. As such, innkeepers are under a duty to ensure that his visitors are able to take care of their own safety. Explain **FOUR (4)** duties of an innkeeper and provide **ONE (1)** case law to support each explanation.

**Question 2**

Mang Kok is a licensed tourist guide. He had worked for Good Holidays (GH) in Semporna Island for 4 years and 8 months. By February 2024, eight serious complaints were filed against him by GH clients. The complained among other stated that Mang Kok was rude, unhelpful, selfish and dishonest. Just few days ago, a group of tour members complained to GH that at one destination, Mang Kok told the tour members to return to the bus at 2.00 pm but Mang Kok himself did not appear until 3.30 p.m. The tour itinerary was upset due to Mang Kok's tardiness.

Concerned by the complaints, GH has given Mang Kok a one-month notice of termination. The employment contract between GH and Mang Kok was silent on this matter. Mang Kok was furious upon receiving the termination notice and seek your advice.

**Question 3**

Answer any **TWO (2)** of the following questions:

- a. Leo was instructed by his employer, Tin to carry a consignment of fruits and vegetables from Cameron Highland to Penang. The lorry that he was driving was badly damaged when it was involved in a road accident near Butterworth. Since he needs to wait for two days for the lorry to be repaired, Allan sold the fruits and vegetables for half of its price. When Tin discovered what had happened, he refused to accept the action taken by Leo and he wants to claim the loss against Leo. Advise Tin.
- b. Mat was authorized by Pua to buy a van for his business which does not exceed RM100,000.00. Later, Mat went to Sim Motors Sdn Bhd and ordered a RM150,000.00 van. A week later, Sim Motors delivered the van to Pua. Pua came to seek your advice.
- c. Jolly instructed her agent Mat Kool to manage a construction of her bungalow in Yellow Hill. Jolly promised to pay Mat Kool RM30,000 as commission. Unknown to Jolly, mat Kool also received RM10,000 from Tipu Construction, a contractor who built the house. Jolly discovered this and seeks your advice on her rights. Advise Jolly.

**END OF EXAM**

**APPENDIX  
CASE LIST**

**A**

Aw Yong Wai Choo v Arief Trading Sdn Bhd [1992] 1 MLJ 166  
Aspatra Sdn. Bhd. v Bank Bumiputra Malaysia [1988]MLJ 97

**B**

Brett v JS & His Wife(1600) 79 ER 9 & 7  
Brown B Brant [1902] 1 KB 696

**C**

Carlill v Carboloc Smoke Ball Co [1893] 1 QB 256  
Charles Grenier Sdn Bhd v Lau Wing Hong [1996] 3 MLJ 327  
Chappell & Co Ltd v Nestle Co Ltd [1960]  
Choo Tiong Hin & Ors Choo Hock Swee [1959] MLJ 67  
Chia Foon Tau v Lim Pey Lin [1998] 7 MLJ 762  
Collins v Hertfordshire County Council [1947] KB 598  
Constantine v Imperial London Hotels Ltd [1944] 2 ALL ER 171

**D**

Daiman Development Sdn Bhd v Mathew Lui Chin Tech & Anor Appeal [1978] 2 MLJ 239 FC  
Daimler Co. Ltd. v Continental Tyre & Rubber Co. (GB) Ltd. [1916] 2 AC 307  
DHN Food Distributors Ltd. v Tower Hamlets London Borough Council [1976]3AllER462  
Donoghue v Stevenson (1932) A.C. 562

**E**

Eckhardt Marine GMBH v Sheriff High Court of Malaya, Seremban & Ors [2001] 4MLJ 49  
Entores Ltd [1955] 2 QB 327

**F**

Felthouse v Bindley [1862] 10 WLR 423.

**G**

Gibbons v Proctor (1891) 64 LT 594  
Gibson v Manchester City Council [1979] 1 All ER 972  
Gill v El Vino Co Ltd (1983)  
Gilford Motors Co. v Horne [1933] Ch. 935  
Gov. of Malaysia v Gurcharan Singh & Ors [1971] 1 MLJ 211  
Great Northern Railway Company v Swaffield (1874) LR 9

**L**

Lee Chin Kok v Jasmin Arunthuthu Allegakoen & Ors [2000] 4 MLJ 481  
Lee Choo Yam Holdings Sdn Bhd & Ors v Khoo Yoke Wah & Ors [1990] 2 MLJ 431  
Lim Chia Min v Cheah Sang Ngeow & Anor  
Loh Kwan Moi & Ors v Ramli bin Jamil & Ors & Government of Malaysia (1984) 1 MLJ 46

**M**

Murugesu v Nadarajah [1980] 2 MLJ 82  
Mohori Bibee v Dhurmodas Ghose [1903] LLR 30 Cal. 539

**N**

Nash v Inman [1908] 2 KB 1

**P**

Pinkerton v Woodward (1867)  
Pinnel's case (1602) 77 ER 237  
Phang Swee Kim v Beh I Hock [1964] 383  
Preston Corporation Sdn Bhd v Edward Leong & Ors [1982] 2 MLJ22

**Q**

Queck Poh Guan (as administrator of The Estate of Sit Kim Boo, deceased) v Quick Awang [1998] 3 MLJ 388

**R**

R v Clarke (1927) 40 CLR 227  
R v Higgins (1948)  
R v Ivens (1835) 7 C. & P. 213  
R v Kupfer [1915] 12 KB 321  
Raffles v Wichelhaus (1864) 2 Hurl & C 906  
Re Bugle Press Ltd. [1961] Ch.270  
Re Spanish Prospecting Co. Ltd. [1911]1 Ch 92  
Re Tan Soh Sim & Ors v Tan Saw Keow [1951] MLJ 21  
Robins & Co v Gray (1895)  
Rothfield v North British Hotel [1920] SC805

**S**

Salomon v A. Salomon & Co. Ltd [1897] AC 22  
Sathu v Hawthornden Rubber Estate Co Ltd (1961) MLJ 318  
Smith, Stone & Knight Ltd. v Birmingham Corporation [1939]4 AllER 116  
Soh Hood Beng v Khoo Chye Neo (1897)4 S.S.L.R

**H**

Hamlyn v John Houston and Co [1903] 1 KB 81.  
Ho Kam Phaw v Fam Sin Nin [1998] 3 CLJ 708  
Hotel Jaya Puri Bhd. v National Union or Hotel, Bar  
and Restaurant [1980] 1 MLJ 109

**J**

Jones v Lipman [1962] 1 WLR 832  
Jones v Noy [1833] 2 M&K 125

**K**

Kabatanan Timber Extraction Co v Chong Fah Shing  
[1969] 2 MLJ 6  
Kam Mah Theatre Sdn Bhd v Tan Lay Soon  
Keighley Maxted v Durant [1901] AC 240  
Kelner x Baxter [1866] LR 2 CP 174  
Kepong Prospecting Ltd v Schmidt [1968] 1 MLJ 170  
Kerpu Singh v Bariam Singh [1966] 1 MLJ 38

**T**

T. Mahesan s/o Thambiah v The Malaysia Government  
Officers' Co-operative Housing (Malaysia) [1977] UKPC  
21  
Tan Hee Juan v The Boon Keat [1934] MLJ 96  
Tan Kiong Hwa v Andrew S A Chong [1974] 2 MLJ 188  
Tinn v Hoffman Co. [1873] 29 LT 271  
Tesco Supermarkets Ltd. v Nattrass [1972] AC 153  
Trollope & Colls Ltd v Atomic Power Constructions Ltd  
[1962] 3 All ER 1035

**W**

Weatherby v Banham (1832) 5 C & P 228  
Williams v Cawardine [1833] EWHC KB J44  
Winkworth v Raven (1931) 1 K. B. 652  
Wong Peng Yuen v Senanayake [1962] 28 MLJ 204  
Woon Yoke Lin v. United Estate Projects Berhad  
[1998] 4 AMR 4052