

COMMONWEALTH OF AUSTRALIA

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Family Name	
Given Names	
Student Number	
Teaching Period	Semester 2, 2016

FINAL EXAMINATION	DURATION				
LAW512 – Commercial and Corporate Law for Managers	<table border="1"> <tr> <td>Reading Time:</td> <td>10 minutes</td> </tr> <tr> <td>Writing Time:</td> <td>180 minutes</td> </tr> </table>	Reading Time:	10 minutes	Writing Time:	180 minutes
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INSTRUCTIONS TO CANDIDATES

Total marks for this exam: 60 marks.

Section A contains 2 longer problem questions worth 15 marks each: Total 30 marks.

Section B contains problem questions worth 30 marks. You must choose and answer 3 (three) of 5 (five) questions, worth 10 marks each: Total 30 marks.

Identify and discuss all relevant issues and refer to legislation and/or case law (where relevant) to justify answers to questions in both sections.

EXAM CONDITIONS

You may begin writing from the commencement of the examination session. The reading time indicated above is provided as a guide only.

This is a CLOSED BOOK examination

No calculators are permitted

No handwritten notes are permitted

Any hard copy, unannotated English dictionary is permitted

ADDITIONAL AUTHORISED MATERIALS	EXAMINATION MATERIALS TO BE SUPPLIED
none	1 x 20 Page Book

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DOUBLE-SIDED.**

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Section A

Total marks for this section: 30 marks

Students **must answer BOTH** questions in this part.

Marks for each question are indicated.

Suggested time allocation for Section A: approx 90 min.

Question 1

Janine decides to attend the performance of a new play at Old World Productions (Old World). She likes to dress up for such events and, on this occasion, wears a tight fitting skirt and stiletto heel shoes. She has attended Old World on a number of previous occasions and knows the layout of the theatre.

Prior to the commencement of the play, she visits the theatre bar and consumes two glasses of wine. She has not finished her second glass when the commencement bell sounds, but she doesn't mind entering a little late as she knows her way around the darkened theatre. When she does enter the theatre the lights have been dimmed and as she descends the steps towards her seat her heel catches on a piece of loose carpet. She is slow to react and falls heavily on her left side.

Janine suffers a severe fracture of her left arm. In addition to medical expenses, she is off work for 6 weeks and, several months later, still suffers some pain.

Advise Janine as to whether she has a potential action in the tort of negligence and, if so, what matters would have to be considered in assessing the liability of Old World.

(15 marks)

Question 2

Sanger Pty Ltd operates a chain of sandwich stores (named 'Sanger') which make and serve express meat and salad rolls and sandwiches for walk-in customers. For the month of March, Sanger stores advertised a 'special customer deal' where customers who purchased a large-size sandwich could also purchase a 'mini-music player' for just a dollar (\$1). Some customers visited Sanger stores in September and inquired about the offer - some customers thought they could buy a cheap MP3 player. In fact, Sanger was offering small pocket radios for \$1 (Sanger's marketing manager thought the advertisement was reasonable because radios can play music).

Sanger obtained the pocket radios from a Brazilian manufacturer at a discounted price and Sanger had nothing to do with their manufacture or assembly. Unfortunately, several customers who took up the deal later complained of minor injuries sustained by using the pocket radios. It appears that a manufacturing defect caused some of the

radios to overheat and produce minor scalding (small burns) when the radio came into contact with the customer's skin.

Explain two potential legal actions which could be brought against Sanger under the *Competition and Consumer Act 2010* (Cth).

(15 marks)

Section B commences on the next page

SECTION B

Total marks for this section: 30 marks

Students **MUST ANSWER 3 (THREE)** of the 5 (five) questions in this part.

Each question is worth 10 marks, a total 30 marks is required.

Suggested time allocation for Section B: approx 90 min.

Question 3

Bill and Mollie are good friends and want to establish a small business selling pancakes in Darwin. They intend that the business be mobile and that they will set up stalls at local markets and at any events where crowds of people gather. They have a special pancake recipe and believe that the business has the potential to make a lot of money.

Bill and Mollie seek your advice as to which business structure might best suit their business. Advise them of the advantages and disadvantages of the differing business structures, given the nature of their proposed business.

(10 marks)

Question 4

Carla attends the theatre for the finals of the University singing competition. She purchases a ticket online for \$300. The tickets are to be collected at the door of the theatre upon production of proof of identification. Carla collects the ticket immediately before entering the theatre. She notices some fine writing on the back of the ticket, but because the show is about to start she does not stop to read it.

When she emerges from the theatre after the completion of the competition she notices a stain on her expensive designer dress, which she discovers is caused by a varnish applied to the seats in the theatre.

Carla complains to the manager of the theatre, but he refers her to the writing on the back of her ticket, which states: "It is agreed that the Theatre Company is not liable for any loss or damage to any property on the Theatre Company premises". A notice with the same wording is on a wall inside the entrance to the theatre. The sign is only just visible from the ticket counter and, at that distance, is difficult to read.

Can the Theatre Company rely on its disclaimer clause in order to avoid liability?

(10 marks)

Question 5

Supa-Dupa Travel Company (SDTC) is a new travel agency in Adelaide hoping to specialise in tours to Kangaroo Island. It conducts a large promotional campaign, nationally and internationally. It advertises an “all inclusive” tour to Kangaroo Island with accommodation being “five star accommodation”. Part of the promotion also includes “genuine Australian-made travel bags” for each person on the tour.

A group of tourists from China eagerly arrive to undertake the tour. On return from the tour they have a number of complaints. They found that they had to pay separately for all meals except breakfasts. The accommodation was in units in a caravan park. On examination of the bags they discovered they had actually been made in China although they had been wrapped in attractive packaging with pictures of Australian kangaroos and emus.

SDTC admitted they had forgotten to add the cost of meals to the advertisement and apologised to the group. They claimed the caravan units were in fact five star for the category of caravan parks. The travel bags had to be used at the last minute because they had run out of the Australian made bags as they had only ordered three dozen and didn't want to disappoint their clients by not supplying a bag at all.

Discuss whether the tourists can successfully bring an action against SDTC under the *Australian Consumer Law*.

(10 marks)

Question 6

The highly praised *The Man Who Loved Children* is said to be the greatest novel by Australian writer Christina Stead. The novel was first published in Australia in 1940 and is based largely on her childhood. Christina Stead died in Australia in 1983.

(a) Is the novel still protected by copyright today? Why? (Explain when the copyright expired or will expire).

(5 marks)

(b) If you wrote Christina's Stead's life story as part of your job as a Library historian, who would own the copyright over the written work? Give reasons.

(5 marks)

Question 7

An agency may be created in four main ways. Describe each one and provide examples.

(10 marks)