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Family Name					
Given Name/s					
Student Number					
Teaching Period	Semester 2, 2017				

LWZ118 – Contracts	DURATION	
	Reading Time:	20 minutes
	Writing Time:	120 minutes
INSTRUCTIONS TO CANDIDATES		
<p>There are FOUR (4) questions</p> <p>ALL FOUR (4) QUESTIONS MUST BE ANSWERED</p> <p>PLEASE USE A SEPARATE EXAMINATION BOOKLET FOR EACH QUESTION</p>		
EXAM CONDITIONS		
<p><u>You may begin writing from the commencement of the examination session.</u> The reading time indicated above is provided as a guide only.</p>		
This is an OPEN BOOK examination		
Any calculator is permitted		
Any handwritten material is permitted		
Any hard copy, English dictionary is permitted (annotated allowed)		
ADDITIONAL AUTHORISED MATERIALS	EXAMINATION MATERIALS TO BE SUPPLIED	
Any printed material with the exception of CDU Library books	4 x 8 Page Book 2 x Scrap Paper	

**THIS EXAMINATION IS PRINTED
DOUBLE-SIDED.**

**THIS PAGE HAS BEEN INTENTIONALLY
LEFT BLANK.**

Answer ALL FOUR questions

Answer each question in a **SEPARATE BOOKLET**

Marks and suggested time allocation for each question are indicated.

Question 1 Ange owned an old, but valuable, Mercedes car. She wanted the car upholstery to be restored to its original condition. She searched the web for a good, reliable upholsterer who had experience with old cars. She saw the web page of Vintage Upholsterers ('Vintage'), which included the statement that all of their staff are highly qualified and experienced, and every care was taken in carrying out work.

Ange took her car to Vintage and asked about their experience in carrying out work on cars such as hers. She also asked about the quality of their work, saying that she wanted her car restored to its original condition. She showed them some pictures of what the upholstery originally looked like. Ange was told that the firm's trades people were 'first class' and that one of them, Carl, had worked on Mercedes cars in Germany. She was told that Carl would be put in charge of upholstering her car.

Ange agreed to have Vintage undertake the work and was presented with a document headed 'Work Order'. The document comprised of one double-sided page with details including customer's name, specification of the work to be completed, agreed price and anticipated completion date. It also contained a blank half page box headed 'special instructions or agreements'. Nothing was written in this box. Ange signed the Work Order.

When the re-upholstery of her Mercedes was completed, Ange discovered that the quality of the work was very poor and that it looked quite unlike the pictures that she had shown Vintage prior to contracting with them. She also discovered that while Carl had supervised the commencement of the work, he had left on holidays two days later.

Ange seeks your advice as to whether she has any potential claim in contract against Vintage. Advise Ange.

[In answering the question, DO NOT address issues of contract formation, consideration or damages or any liability in tort]

(Marks 20 – suggested time: 40 minutes)

Question 2

Freddie Fast is a famous stunt roller-skater. After lengthy negotiations Freddie entered into a contract with the Xtreme Dance Club (XDC) to make a guest appearance and perform his signature stunt – Flip and Fly – where he jumps blindfolded over 10 patrons and executes a backward somersault while holding a jug of beer.

The contract contained the following terms (among many others):

2. XDC agrees to pay Freddie Fast the sum of \$5,000 whether his stunt is successfully completed or not.
10. XDC has the exclusive right to arrange television coverage of the Flip and Fly stunt and is entitled to all proceeds from such media coverage.
25. Neither XDC nor any media present covering the appearance accepts any responsibility or liability for any injury (including death) suffered by Freddie Fast during his performance of the stunt regardless of the cause of the injury.

Later, XDC negotiated with Dare Videocasters to stream the stunt live online. Minutes before the stunt was to be performed the cameraman for Dare Videocasters placed a small camera in the landing zone in order to record some edgy low-angle footage. Freddie was not made aware of the placement of this camera.

Freddie successfully completed the stunt but on landing collided with the camera and broke his leg. In her enthusiasm to assist Freddie, XDC's first aid officer (an employee) negligently ran into him with the stretcher and broke his arm.

- (a) As a result of his injuries Freddie is unable to work and so wants to sue both XDC and Dare Videocasters for their negligence. Advise Freddie whether Clause 25 of the contract might operate to protect either XDC or Dare.
- (b) Freddie's manager used his smartphone to video the stunt and the injuries that followed. He sold the footage to a local breakfast show for \$10,000. XDC's lawyer has sent a letter of demand to Freddie claiming the full proceeds. Advise Freddie about the strength of XDC's claim.

[In answering the question, DO NOT address issues of contract formation, consideration, discharge or damages or any liability in tort]

(Marks 20 – suggested time: 40 minutes)

Question 3

Ricky is a baker. He is experiencing some challenges with his bakery and makes the following agreements:

1. In an attempt to stop 'undesirables' camping in his doorway overnight he promises the local police sergeant that he will donate \$200 to the police social club if officers patrol around the bakery at least three times a night for the next month.
2. He offers Constable Wilder a personal payment of \$500 if he runs one particularly obnoxious fellow named 'Skunk' out of town permanently and 'roughs him up a bit in the process'.
3. To pay Ivy, a 16 year old student, \$10 per hour to wave an advertising placard on the road outside the bakery after school.

Briefly advise on the following:

- (a) Is Ricky legally bound to make the promised donation to the police social club?
(Marks: 4)
- (b) Skunk has disappeared. Constable Wilder is asking for his money. Is Ricky obliged to pay?
(Marks: 3)
- (c) Ivy does 10 hours of work but Ricky only pays her \$50 saying "You can't enforce our agreement because you are under 18 year of age". Is he correct?
(Marks: 3)

[Mindful of the mark allocation, focus your answer to each part on the most relevant aspect of contract law applicable on the facts given.]

(Total Marks 10 - suggested time: 20 minutes)

Question 4

Brad, an advertising executive, takes his car to Perfect Autos for repairs to the brakes and steering. After the repair work is completed and paid for he notices that the brakes are a little noisy when applied and that there is still a small vibration of the steering wheel when turning sharp corners. Nevertheless he continues to drive the car.

A week later, as he is rounding a corner, the steering wheel seizes and when Brad applies the brakes they do not work effectively. The car crashes into a tree. Brad suffers a broken arm. He phones his wife from the scene of the accident and the news causes her to faint. She falls and breaks two ribs. Because of the accident, Brad misses an important meeting with a new client, who was interested in discussing a potential advertising contract worth millions of dollars. The client subsequently awards the contract to someone else.

Brad seeks your advice as to his remedies, if any, against Perfect Autos. Advise him.

[In advising Brad you should assume the existence of a valid contract of repair. DO NOT discuss liability in tort.]

(Marks 10 – suggested time: 20 minutes)