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Family Name					
Given Name/s					
Student Number					
Teaching Period	Semester 1, 2019				

LAW514- Commercial Law	DURATION	
	Reading Time:	20 minutes
	Writing Time:	180 minutes
INSTRUCTIONS TO CANDIDATES		
<p>The total marks for this exam: 50 There are five questions each worth 10 marks. Students are required to answer all questions.</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 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	1 x 20 Page Book 1 x Scrap Paper	

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DOUBLE-SIDED.**

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LEFT BLANK.**

Problem-solving Questions

Total Marks for this section: 50

All questions should be answered.

There are 10 marks for each question. You should aim to write approximately 3-4 pages for each question.

Suggested time to allocate to each question is approximately **40 minutes**.

Question 1 [10 marks]

Sachin is Warren's next-door neighbour. He is illiterate, suffers from severe depression and relies upon Warren for advice and support. Sachin wants to sell some of his land and Warren agrees to buy it. Sachin accepts the first price Warren offers as he trusts him. He did not seek independent legal or financial advice. Sachin signed the contract for the sale on the spot. Sachin's brother has now called Warren to express his concern about the contract price and the deal as a whole, but Warren wants to enforce the contract.

Advise Sachin as to whether there was a valid contract. Can Virat pull out of the deal in this way? Explain your answer with specific reference to the elements of contract and issues of consent. Your answer must refer to the relevant case law.

Question 2 (10 marks)

Marilyn is run down and injured while crossing a street with no pedestrian crossing. The driver of the vehicle involved in the accident was not keeping a proper lookout for pedestrians and was driving at 70 km/hour in a 60 km/hour zone.

Has the driver committed a tort? Can the driver use any defence? Use relevant cases to support the elements of the tort of negligence.

Question 3 [10 marks]

Li, the general manager of a courier business, is on holiday in Bali. He ran out of money. He telephones Ahmed, the most knowledgeable, experienced and trusted courier. Li asks Ahmed to sell an old coffee machine for at least \$500 and deposit the money to Li's bank account. The next day, Li was surprised to find that only \$250 was deposited to his account. He telephones Ahmed. Ahmed explains that he sold the coffee machine to his best friend and could not "rip him off" by charging \$500. Li is furious.

Advise Ahmed if he is liable for the balance of the money and if so on what grounds? Your answer must refer to relevant agency case law.

Question 4 [10 marks]

Rupali arrives in Perth airport on a Monday morning for a three-day break (holiday) from her job. She has already pre-booked a car with a hire-car company, to collect at the airport at 11am on Monday and return at 11am on Wednesday. She arrives at the airport on time (11am Monday). She pays a \$350 deposit and signs a contract setting out the terms and conditions of the car hire arrangement. The car needs to be cleaned and so Rupali has to wait for two hours until she can take the car and drive away. Rupali returns the car to the airport office of the hire-car company at 11.30am on Wednesday. The employee indicates Rupali has forfeited her deposit as the car is returned 30 minutes late and refers her to the following terms in the car hire contract: *“The company will make all reasonable efforts to ensure that the vehicle is available for collection by the customer by the agreed time. The company will not be liable for any delay in making the vehicle available to the customer. The customer must return the vehicle by no later than the agreed time. Any failure whatsoever to comply with this requirement will result in forfeiture of the deposit.”*

Using the relevant sections of the *Competition and Consumer Act 2010 (Cth)* and case law, advise Rupali of her rights under the Act and her chances of success. (NB. Do not use contract law in this answer.)

Question 5 [10 marks]

Gary Reynolds is a sole trader and runs his own business as an architect. Gary tried to expand the business 12 months ago by borrowing \$100,000 from Rap Bank, employing two assistant architects and setting up a new office on Mitchell Street, Darwin. Gary now finds that his operational costs and debts are much higher than the revenue coming in from the architecture services he provides. A number of creditors are now pressing Gary for payment, including the landlord who wants to repossess the Mitchell St office because of unpaid rent. These creditors cannot all be paid within contractual terms. Gary, a single father, owns a house which is mortgaged to Rap Bank and various other assets such as two cars and some cash in his bank account.

Explain how Gary’s situation might be different if he was a director of a company (eg, ‘GR Architecture Pty Ltd’), instead of being a sole trader. Describe the advantages and disadvantages of establishing a company?

-----End of Exam-----