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Family Name					
Given Name/s					
Student Number					
Teaching Period	Final Exam, Semester 2, 2018				

LAW514 – Commercial Law	DURATION	
	Reading Time:	10 minutes
	Writing Time:	180 minutes
INSTRUCTIONS TO CANDIDATES		
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	1 x 20 Page Book	

THIS EXAMINATION IS PRINTED
DOUBLE SIDED.

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Problem-solving Questions

Total Marks for this section: 50

All questions should be answered in the Answer Booklet provided.

There are 10 marks for each question. You should aim to write approximately 2-3 pages for each question.

Suggested time to allocate to each question is approximately **36 minutes**.

Question 1 [10 marks]

Virat offered to purchase Sachin's vintage Mercedes-Benz car after it was advertised for sale privately. His exact words to Sachin were as follows: "this car is great, I love it; I will definitely buy it. Please don't sell it to anyone else. I just need 10 days to arrange my finances, but there should be no problem." Sachin replied "ok, that will be fine". These two are well known to each other and those who know them would consider them to be friends. Sachin is also aware that Virat is quite wealthy. On the strength of Virat's words, Sachin borrowed bridging finance (a high interest loan) to buy another, more expensive, car. Before the 10 days had expired and after Sachin had bought the second car, Virat told Sachin he had been advised by his tax accountant not to buy the car. Sachin was furious as he had turned away other prospective buyers and now cannot find another buyer. He relied upon things Virat said about buying the car, and now he is burdened with a new loan and nowhere to put the second car. Sachin now seeks your legal opinion as to whether he might be able to enforce the contract with Virat.

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 issues of Intention, Agreement and Consideration. Your answer must refer to the relevant case law.

Question 2 (10 marks)

Dilpreet hires Ash's sister Karen as a dancer to entertain patrons at Dilpreet's restaurant. Karen urges Bob, a customer who is celebrating his 60th birthday with his family, to join her in a dance. Bob had been drinking some alcohol but later claims he was not drunk. While vigorously attempting to keep up with Karen, Bob breaks his hip. This has never happened at Dilpreet's restaurant before and it has never happened to Karen either. Bob had no previous history of hip problems.

Explain the grounds upon which Dilpreet may be exposed to a possible tort law action against her. Use relevant cases to support your answers.

Question 3 [10 marks]

Gong Li, the general manager of a courier business, saw an advertisement by a car dealer in the daily paper advertising 'Great Wall' automatic sedans at a special low price of \$18,000. Gong Li showed her assistant, James, the advertisement and said to James, 'I give you authority to purchase one of these advertised sedans for the business immediately. We need an efficient new sedan for our small delivery jobs which are growing in number, but don't spend anything over this amount.'

James went to the car dealership, and spoke to the dealer, Martin, and explained that he was buying a car for his employer, Gong Li. James showed Martin his business card (which has both his name and the business name – Gong Li & Associates – printed on the card). Martin then explained to James that the Great Wall sedan will be more expensive to run in terms of fuel consumption for intensive use deliveries compared to a more evolved Japanese model also on special at \$22,500. Martin convinced him that this would produce substantial savings over the longer term. James phoned Gong Li for instructions but she was not available. James purchased (on the business credit-card) the Japanese sedan and took immediate delivery.

Gong Li upon returning to the office is very upset about the purchase.

Advise James 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]

Camilla arrives in Adelaide 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 \$250 deposit and signs a contract setting out the terms and conditions of the car hire arrangement. The car needs to be cleaned and so Camilla has to wait for 30 minutes until she can take the car and drive away. Camilla returns the car to the airport office of the hire-car company at 11.30am on Wednesday. The employee indicates Camilla 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 Camilla of her rights under the Act and her chances of success. (NB. You are not required to use contract law in this answer.)

Question 5 [10 marks]

Kapil has created his own website for his new restaurant 'Flaming Curry'. When he designed it he had trouble thinking of interesting and informative content and layout, so he had a look at what other restaurant websites looked like and without thinking carefully about what he was doing he simply plagiarised other's ideas applying them to his own website. But he has now been contacted by a lawyer representing Sachin who is the owner of 'Little Master' restaurant. It is claimed that Kapil copied the 'Little Master' website's colour scheme, font and menu design. In fact they are basically identical. He also claims that he has copied Sachin's slogan: 'Every bite takes you on a journey to India'. Kapil insists that he did not deliberately copy the 'Little Master' website, although it was one of the websites he looked at when planning his own.

Has Kapil infringed any intellectual property laws? What rights does Sachin have in this matter? Your answer must refer to the relevant cases and applicable legislation.

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