

Write Your Exam Code Here: _____

Return this exam question paper to your invigilator at the end of the exam before you leave the classroom.

**THIS EXAMINATION CONSISTS OF 3 PAGES, INCLUDING THIS PAGE
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER**

**PETER A. ALLARD SCHOOL OF LAW
UNIVERSITY OF BRITISH COLUMBIA**

DECEMBER 2018

**LAW 241.004
Torts**

Professor Arbel

TOTAL MARKS: 100

TIME ALLOWED: 60 minutes (plus 15 minutes reading time)

- (1) THIS IS AN OPEN BOOK EXAMINATION. Candidates may bring notes, books, or any other written material into the examination room. Communication devices such as mobile phones are not permitted. Candidates are asked to ensure that their phones are turned off.
- (2) THE READING TIME MAY NOT BE USED TO WRITE THE EXAM. You may use this time to take notes on scrap paper or on your exam paper. You are advised to use this time to read through the exam and think about your answers.
- (3) Full citation of cases is not necessary. You may refer to cases in short form (e.g.: "Bettle").
- (4) This examination is designed to test material covered in this course only. Do not discuss sources not covered in the course materials, discussions, or lectures.
- (5) Questions raise issues that do not have one "right" answer. Identify and discuss fully the points raised by each question, giving some sense of the relative strength of the arguments.
- (6) State clearly any facts you assume in answering the questions. If you need to rely on additional facts that are not in the exam, state so.
- (7) A suggested working time for each question is indicated on the exam paper. Be careful to budget your time.

THIS EXAMINATION CONSISTS OF ONE QUESTION.

QUESTION ONE: 100 marks (recommended time: 60 minutes)

John Weaver and Lucy Philips dislike each other as a result of a decades-old dispute between their families. John and Lucy are both scientists who research climate change. While both John and Lucy believe that climate change is pressing and urgent, they disagree in their approach as to how best to address the problem.

In September 2017, John moved next door to Lucy in Vancouver, B.C. Both disliked having the other as a neighbor. They frequently crossed paths and often exchanged unpleasant words or engaged in heated debates.

On November 10, 2017, John published a prominent opinion piece in the National Post calling for immediate action on the part of the public to address climate change. The article was very well received by the academic community. Lucy disagreed with John's position. She believed that his article was based on bad science, and that it was misleading and did a disservice to the public. As a result, Lucy decided to write an opinion piece that criticized John's stance. She titled it "Dr. Weaver's web: personal interest or climate science?". In the article, Lucy described John as "unreliable" and "sloppy". Lucy also implied, though did not state, that John distorts and conceals scientific data in his work to promote his personal agenda and receive government funding for his research.

On November 12, 2017, the National Post published Lucy's article without edits in the print version of the paper. It, too, was very well received. Wanting to flaunt the success of her article, Lucy bought a large stack of newspapers and dropped them off on John's front door with a note saying "gotcha".

That same day, the National Post also posted an electronic version of the same article online. On its website, the National Post invites readers to post comments on most, but not all, of its articles. The comments can be posted by any reader that subscribes to the newspaper, and are not pre-vetted by the National Post.

Lucy's article attracted roughly one hundred comments. Of those, twenty were especially critical and hostile in their tone. These comments referred to Dr. Weaver as a "quack", a "fraud", a "public menace" and a "danger to the planet". One comment stated: "people like Dr. Weaver are driven only by self-interest, not science. Weaver should be stripped of all government funding and fired from his job".

When John read Lucy's article and the reader comments posted online, he was devastated. He felt that his character and the credibility of his work were being publicly attacked. When John returned home that day, he was frazzled and upset. Not noticing the stack of papers on his front door, he tripped, fell, and cut his lip open.

[question continues on following page]

[*Question one, continued*]

At the time, Lucy was potting flowers on her front porch. Seeing her there, John immediately stormed over to Lucy's house. He was bleeding profusely from his lip, waved his fists in the air, and yelled out: "That was the final straw Lucy, you've gone too far!".

Lucy was startled to see John so angry, and was alarmed to see his face covered in blood. She tried to calm him down, but to no avail. John approached Lucy quickly and tried to grab her by the shoulder, but only caught hold of her coat. Lucy managed to avoid his grip by slipping her coat off, ran inside, and locked the door. At the time, she was holding a flower pot. Startled by John's actions, she lost her grip on the pot. The pot shattered into several pieces, and one piece slashed John across the arm causing him great pain.

Discuss any tort actions arising from the above facts, and any reasonable defences. If you think damages may be appropriate for any of the torts you identify, state which ones. You do not need to quantify the damage amount.

State clearly any facts you assume in answering the question. If you rely on additional facts, state so.

END OF EXAMINATION