Commercial Transactions
Examiners Comments
Examination March 2019

SECTION A

QUESTION 1

Students struggled. Far too many took the facts at face value and did not analyse. E.g. intention to be derived from documents and conduct……whether there was any bailment….no possession by W. ,,,,whether ROT clause applied in circumstances….did PPSA registration cover ROT clause in particular circumstances..

QUESTION 2

A large number of students attempted this question and appreciated it was about product and service liability. The majority of students were able to describe the ACL sections which might provide grounds for a claim. Quite a few worked through the criteria of those sections for application well. However, few students were able to construct arguments supporting their conclusions and as a result very few received high marks. Some answers were purely descriptive. There were problems with pinpointing causation and distinguishing it from result. Just because there were terrible health issues, it was not necessarily the fault of valve.

QUESTION 3

Good general understanding of s. 18 ACL application.

QUESTION 4

Most students who attempted the question saw that it involved priority between 2 interests -a lien and a registered PPS lease. A few students did not recognise the common law repairer's lien and saw it ….incorrectly….as a bailment question, or a priority competition between a registered and unregistered "security interest".

QUESTION 5

Students found it hard to identify what relevant matters might have existed prior to the insurance contract being entered into, which should have been disclosed, and then concentrate on what Michael would have to prove to achieve what he wanted, and to discuss any issues arising in that process.

QUESTION 6

As always, a large proportion of students attempted these shorter questions rather than a fourth problem question. The marks did not indicate that all students found them easier.

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2 April, 2019