



NUI MAYNOOTH
Ollscoil na hÉireann Má Nuad

OLLSCOIL NA hÉIREANN MÁ NUAD
THE NATIONAL UNIVERSITY OF IRELAND MAYNOOTH

SEMESTER 2
2012-2013

LW107
Torts

Professor Thomas D. Russell

Time allowed: 2 hours

Answer one question

There is only one question

INSTRUCTIONS:

1. **LENGTH:** This is a two-hour examination. You must stop writing your answer when the invigilator says to stop.
2. **TURNING IN YOUR SCRIPT:** Turn in your script as instructed at the conclusion of the exam.
3. **LENGTH:** This examination consists of one question. There is no minimum or maximum word limit. There is also no reward for writing more words rather than fewer words. If two answers have identical content and one has fewer words, the shorter answer will earn a higher mark.
4. **FORMATTING:** You may format your answer however you wish. Be sure to maximize readability.
5. **HOW TO ANSWER:** This is a Torts exam. Answer the question Professor Russell has posed not some other question of your own invention. In answering, use judgment and common sense. Be organized. Emphasize the issues that are most important. Do not spend too much time on easy or trivial issues at the expense of harder ones. If you do not know relevant facts or relevant legal doctrine, indicate what you do not know and why you need to know it. You must connect your knowledge of law with the facts before you. Avoid wasting time with lengthy and summaries of general legal doctrine; discussion of law and doctrine must be connected to the facts before you. Discuss all plausible lines of analysis. Do not ignore lines of analysis simply because you think that a court would resolve an ambiguous question one way rather than another.
6. **JURISDICTION:** The law of the Republic of Ireland applies to all the issues in this examination.
7. **CONCISION:** Quality, not quantity is desired. Think through your answer before you begin to write. You will earn a better grade by being thorough and concise. And, of course, well-organized answers will be the best answers that earn the highest grades.

8. CHEATING: If, in preparing for this examination you have violated the Examination Regulations or the Code of Discipline for Students, or if, during this examination, you violate the Examination Regulations or the Code of Discipline for Students, the best course of action is for you to report to the Chair of the Academic Discipline Board immediately after this examination ends.

9. SIGNATURE: On the front cover of your script, please write the following “No unpermitted aid given or received.” Sign your name following that sentence. **Do not write your name in any other place in the exam script.**

10. GOOD LUCK.

Nearly everyone was drunk--a notable exception was the woman ready to fire the shotgun in her hands.

The incident took place during the summer of 2011 at the Irish Clay Pigeon Shooting Association (ICPSA) annual match in County Westmeath. The Irish Clay Pigeon Shooting Association is the governing body for the sport of clay pigeon shooting in Ireland. The aim of the Association is to promote and develop the various disciplines of clay pigeon shooting and to act as the National Governing Body for the Olympic shotgun shooting disciplines.



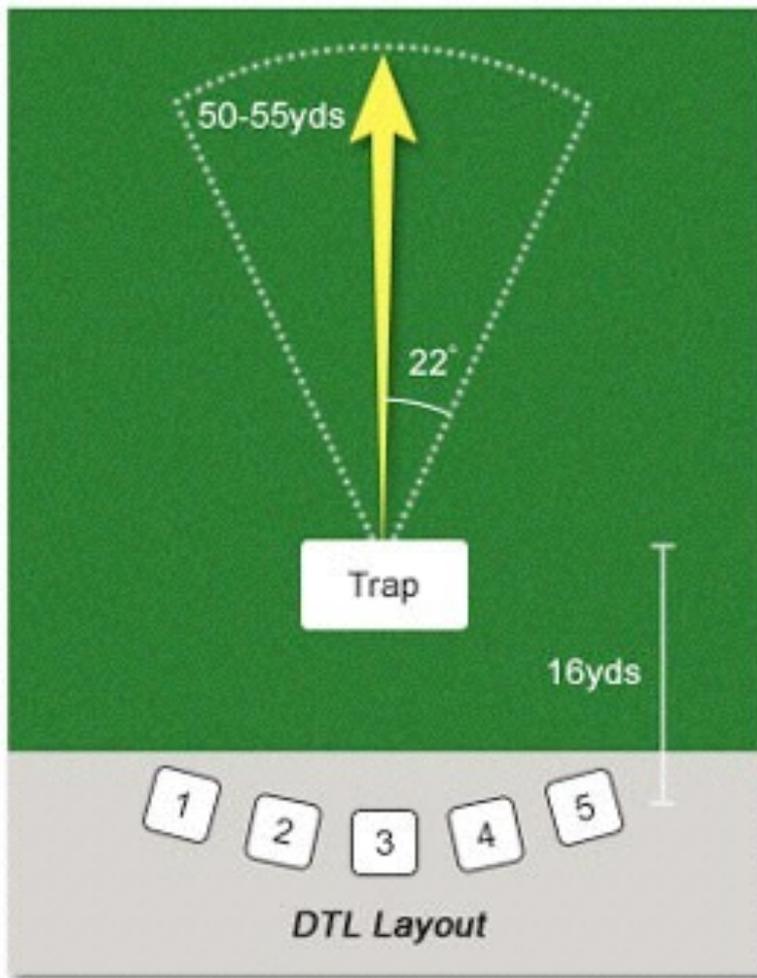
The 2011 annual match took place at the Mullingar Shooting Range. The Mullingar Shooting Range was a property that the ICPSA did not own but that the ICPSA used from time to time for competitions and other events.

The sport of clay pigeon shooting offers participants of all ages and genders the opportunity to compete. Clay pigeon shooting has at least 20 different forms of regulated competition called disciplines. These can be roughly divided into three main groups, Trap, Skeet, and Sporting.

Trap gets its name from the machines that launch targets into the air. The targets, known as clay pigeons, are circular, clay or ceramic disks. A shooter with a shotgun tries to shoot the target after the trap launches the target. The trap causes the clay pigeon to sail through the air away from the trap and away from the shooter. The traps are typically situated about 16 yards in front of the shooter, and the trajectories of the targets are generally set so that the targets are moving away from the firing point at varying speeds, angles, and elevations. The shooters usually pre-mount the gun into their shoulder. When the shooter calls “pull” or gives some similar vocal indication that he or she is ready, the target is released, the trap flings the target into the sky, and the shooter attempts to blast the target as the target is in flight.

The Mullingar Shooting Range, in County Westmeath, was responsible for setting up the trap shooting competition. The shooters stood 16 yards behind the trap, which released the clay pigeons so that they sailed away from the shooters within an arc that spread 44 degrees from right to left in front of the shooters.

The Mullingar Shooting Range did make one important--and in retrospect, costly--modification to the shooting diagram. They added a seating area for spectators. The seating area was in front of and to the right of the shooters. The seating area was to



the right of the trap and was located just to the right of the line marked "16yds" in the DTL Layout diagram. Because shooters fired their shotguns downrange within the 44 degree area, the Mullingar Shooting Range owners felt that the location of the seating area--which gave spectators a fine view of shooters and targets--was both safe and exciting.

Nearly everyone was drinking alcohol--mostly whisky and beer--at the ICPSA's summer event. The weather was warm and sunny; there was a barbecue; and the event was mostly a social event

for ICPSA members, all of whom were experienced clay pigeon shooters.

The injuries happened during a shooting demonstration. Ms. Risa Loban, who was 29 years old at the time, was demonstrating her gold-medal winning shooting skills. She had successfully shot 65 clay pigeons in a row--which approached the club record of 68 sequential, successful shots--when Mr Sean McCormick approached her from behind while she had the shotgun on her shoulder. McCormick thought that she was going to wait a few moments more before yelling "pull," and McCormick took that opportunity to pinch Ms. Loban's rear end. As reported in the *Irish Independent* on 8 April 2012, Mr. McCormick has recently sent to the Association a letter in which he writes that:

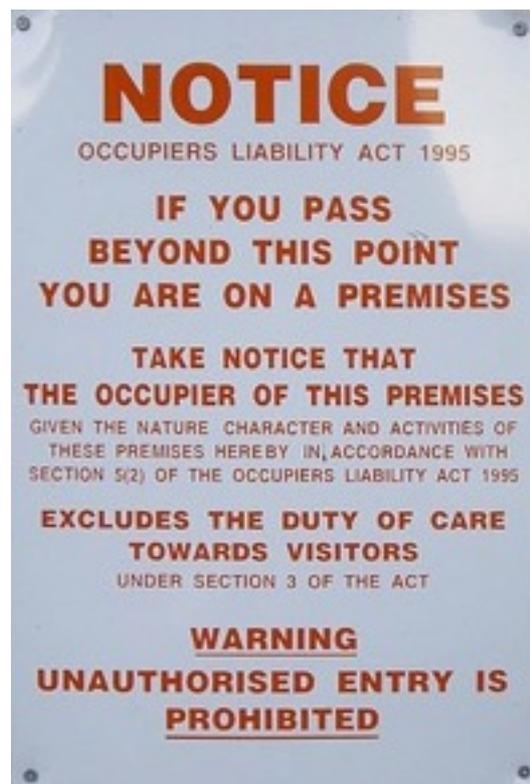
I acknowledge that I engaged in inappropriate behaviour towards Lisa Hoban at Mill Hill Shooting Grounds on Sunday, September 11, 2011, when I made contact with her in the area of her upper leg/seat. I apologise unreservedly for the hurt and embarrassment caused to her as a result.

Ms Loban's partner, Seamus Griffin, said the incident had turned Lisa's life upside down and deeply upset her family. "This has given Lisa many sleepless nights," he told the *Independent*.

The damage done was not limited to the unwanted touching of Ms Loban by Mr McCormick. Just before Mr McCormick touched her rear end, Ms Loban had yelled "pull." As she felt the pinch, reflexively she turned to her right and at the same time, she pulled the trigger on her shotgun. The shotgun severely wounded one of the spectators in the seating area to the right of Ms Loban. That spectator, Pdraig Pearse, has survived but is now completely blind. Seated with Mr Pearse were ten other spectators, all of whom watched in horror as Ms Loban swiveled the barrel of the gun toward them and fired. Remarkably, Mr Pearse was the only one of the spectators to have been shot by the shotgun blast. To varying extents, however, the other ten spectators all experience emotional residue from the incident, which ranges from sadness to depression and, in one instance, a diagnosis of Post-Traumatic Stress Disorder.

Years ago on the advice of their solicitor, the Mullingar Shooting Range installed a sign near the front entrance of their facility. A photograph of that sign--taken when the sign was brand new--appears to the left. Since the installation of the sign, a hedge has grown in front of the sign so that none of the text below the phrase "Take Notice That" is visible. In addition much of the sign's text has become unreadable due to weather and also due to shotgun blasts from visitors to the Range.

Your job is to assess all of the Tort claims resulting from this unfortunate incident. You should identify potential plaintiffs and defendants, and you should analyze their claims thoroughly including potential damages and defenses.



END OF EXAMINATION