



HKU | LAW

LECTURE 8: TERMS AND EXCLUSION CLAUSES

Instructions

Prepare a written outline to answer the question on the following page and bring it to class. In class, we will analyse the approach to answer the question. There is no need for you to write a full-scale answer to the question.

Question

Jane owns and runs a one-house independent cinema in Kennedy Town. As part of a promotion campaign, Jane decides to refurbish the only house in her cinema. She hires a contractor firm, Yellow Sheep, to carry out the refurbishment work. This work includes: (i) re-carpeting the house and (ii) installing a new drywall ceiling to lower the existing ceiling, to improve the acoustics. After Yellow Sheep finishes the work, Jane decides to test the acoustics of the newly refurbished cinema by watching “In the Mood for Love” by herself. As Jane is nearing the final scenes of the film, part of the ceiling collapses on her. Jane is rushed to the hospital, where she is diagnosed with a dislocated shoulder and a broken humerus. Moreover, the collapsed ceiling ruins a number of chairs and the new carpet, causing damage for \$60,000. It transpires that Yellow Sheep’s workers were negligent in installing the new ceiling as they did not install the correct type of drywall appropriate for the size of the cinema house. When Jane tells Yellow Sheep that she will sue them for damages, Yellow Sheep points to Clause D in the contract under which:

Yellow Sheep will not be liable for any damage howsoever caused to any person. If any person suffers damage to property, Yellow Sheep’s liability will be limited to \$10,000.

Jane realises that she has never read this clause, because it did not appear in the contract she signed. However, Jane had already been dealing with Yellow Sheep on various occasions: Jane had availed herself of Yellow Sheep’s services as contractors in May 2017 (to install new cinema chairs), December 2018 (to install a new sound system) and April 2020 (to change the cinema screen). On all three occasions, the contracts between Jane and Yellow Sheep, which Jane signed, included a clause identical to Clause D.

Advise Jane.