

Reflective Media Diary (Part A)
Diary Entries
Tutor's initials: CY

82

	Title	Newspaper	Date of Publication	Date of Entry	Word Count
1.	Hong Kong bus crash injuries 24 passengers	SCMP	12/09/2020	14/09/2020	121
2.	Hong-Chi student allegedly abused, resulting in finger fracture	Oriental Daily	20/10/2020	21/10/2020	124
3.	Several dead and injured as fire rips through tenement-building	SCMP	15/11/2020	17/11/2020	122
4.	Four poisoned by chicken dish	The Standard	26/11/2020	28/11/2020	119
5.	BreadDigital denies copyright infringement allegations	Stand News	10/12/2020	10/12/2020	118
6.	Two suspicious persons entered a house without permission	HK01	14/12/2020	14/12/2020	120
7.	Woman awaiting COVID-19 test found dead	HKEJ	20/12/2020	22/12/2020	120
8.	Worker injured under unsafe working system	Oriental Daily	8/1/2021	9/1/2021	119
9.	A 10-year-old girl fell off the bridge	HK01	19/1/2021	19/1/2021	118
10.	Gym trainer scammed \$3,500,000 from a woman	HK01	28/1/2021	28/1/2021	120
Total					1201

Entry 1

Hong Kong bus crash injures 24 passengers, including two children

- Eleven ambulances were on the scene in Sham Shui Po after collision involving street-cleaning vehicle and a double-decker bus
- They crashed on Saturday afternoon at the junction of Un Chau Street and Kweilin Street



Christy Leung

Published: 5:52pm, 12 Sep, 2020

Why you can trust SCMP

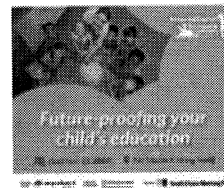


Saturday's collision involved a street-cleaning vehicle and a route six KMB bus. Photo: Facebook

Twenty-four people, including two children, were injured in a Hong Kong crash between a bus and a street-cleaning vehicle on Saturday afternoon.

The 64-year-old driver of the street-cleaning vehicle, which belonged to Man Shing Cleaning Co Ltd, was arrested for dangerous driving.

Eleven ambulances were on the scene soon after the 4.26pm collision at the junction of Un Chau Street and Kweilin Street in Sham Shui Po.



The emergency services tend to those in need. Photo: Facebook

Firefighters and police officers were among the first arriving for the rescue effort. Both vehicles involved in the incident suffered severe damage.

The KMB bus was serving route six between Lai Chi Kok and Tsim Sha Tsui.

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- Good
- Average
- Poor

(continued next page)

The KMB bus was serving route six between Lai Chi Kok and Tsim Sha Tsui.



Two children were among those injured in Saturday's crash. Photo: Facebook

Chief Inspector Lam Chi-hang said the street-cleaning vehicle reportedly crashed into the bus, injuring 10 males and 13 females on board the latter.

The injured passengers were aged between five and 85. A female occupant of the other vehicle was also hurt. No one was seriously injured.

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"We will look into the road situation when the accident happened, whether the vehicles were overloaded and also into the drivers' attitude," Lam said, adding that initial investigation revealed that speeding was not involved.

A police source said the bus was driving north along Un Chau Street, while the street-cleaning vehicle was driving along Kweilin Street. He added that the driver of the street-cleaning vehicle was believed to have failed to give way to the bus, ramming into it.

The Transport Department said that due to the traffic accident, all lanes of Un Chau Street between Nam Cheong Street and Yen Chow Street were closed to all traffic.

Entry 2

匡智學童疑受虐 門夾手指骨折

【本報訊】特殊學校「匡智會松嶺二校」去年疑發生虐童事件，據知有學童遭人用門夾手致骨折，家長檢視傷勢後疑學校隱瞞，並隨即報警。警方表示已循「對所看管兒童或少年人虐待或忽略」方向調查並徵詢法律意見，律政司認為沒有足夠證據提出檢控。匡智會發言人表示，由於涉及個人資料，為尊重私隱，該會未能詳盡回應。教育局指沒有收到有關投訴，正向校方了解詳情，嚴肅跟進。

校方職員稱拉扯間致受傷

位於大埔南坑頌雅路的匡智會松嶺二校，是一所為嚴重智障兒童而設的特殊學校，有家長指，患有嚴重智障及自閉症的兒子去年三月手指受傷，食指指甲脫落，指頭紅腫，有瘀傷和流出液體，當時校方職員聲稱是拉扯間受傷，但其後在入院檢查後，醫生發現學童手指骨折，家長最後決定報警。

警方翻查閉路電視，發現宿舍職員試圖把情緒激動的學童關在特設房間時，學童反抗，在拉扯間職員大力關門夾傷其手所致。警方回覆表示，於去年四月三日接獲報案，指一名十七歲學童在同年三月廿二日於頌雅路一學校內懷疑手指受傷，警方循「對所看管兒童或少年人虐待或忽略」方向調查並徵詢法律意見，律政司認為沒有足夠證據提出檢控。

「實施約束會徵家長意見」

匡智會發言人稱，校董會正認真研究包括成立專責小組檢視及提供意見等方法；指過往學校會按個別學生的狀況，採用較保護式或隔離等方法照顧學生，就約束或隔離事宜，每個個案均通過跨專業個案會議作考慮及適時檢討，事前會徵詢家長的意見及書面同意。自教育局於一八年推出「使用約束或隔離的方法處理有特殊教育需要學生嚴重情緒行為問題的指引」後，學校已逐步更新內部指引，就個案進行調適及評估，並為同工提供相關訓練及與家長保持緊密溝通。

嚴重弱智人士家長協會發言人李芝融表示，一般學生有嚴重受傷或特殊情況，學校一般會即日告知家長，約一星期後會向家長交代事情，根據自己以往經驗，最快在數小時內便會接獲通知。他認為現時機制要求校方主動通報，或可優化程序。

教育局表示並沒收到涉及有關事件的投訴，該局正與學校了解，嚴肅跟進，學校另曾就兩宗學生意外事故呈報教育局。

Entry 3

Hong Kong / Society

At least seven dead, several others critically injured as fire rips through flat in Hong Kong tenement building

- Nine-year-old child among those killed in the blaze, the deadliest in city in almost a decade
- Police investigating whether flat in Yau Ma Tei was operating as unlicensed restaurant while source says gathering was for a birthday party



Denny Mok

Published: 10:03pm, 15 Nov, 2025

Why you can trust SCMP

At least seven people including a nine-year-old child were killed and several others critically injured in Hong Kong on Sunday night after a fire broke out in a flat suspected to be an unlicensed restaurant.

Authorities said four men and three women, aged nine to 40, died after the blaze ripped through the apartment in a tenement building near the junction of Canton Road and Saigon Street in Yau Ma Tei.

Three men and four women were listed as being in a critical condition in hospital. Two others were in a serious condition. One person was stable in hospital and another was discharged.

The fire was the deadliest in Hong Kong in almost a decade.



The injured were taken to four different hospitals. Photo: Handout

According to a police source, the flat was being used as a Nepalese restaurant at which a birthday party was being held. Lit candles were thought to have set soundproofing material on fire.

Most of the casualties were Nepalese, the insider said.

A Fire Services Department official told a press briefing in the early hours of Monday there had been a gathering inside the flat, while a police spokesman said they were investigating whether the premises was an unlicensed restaurant.

(Continued next page)

FSD division officer Cheung Kwong-yuen said the building did not have any fire suppression systems, such as sprinklers. He said the flat was an open unit of about 800 sq ft, and firefighters had found lots of dining tables inside, with people trapped in the back of the kitchen.

Cheung said the cause of the fire was still unknown.

The tragedy had unfolded at about 8.35pm when a man was seen climbing from a window of the Canton Road flat, located on one of the building's lower floors.



At least 18 people were rushed to hospital. Photo: SCMP

The flat was engulfed in flames. Firefighters brought the blaze under control in about half an hour but it was not until 10.41pm that it was finally put out.

Paramedics rushed 18 people to four hospitals.

The injured were taken to Kwong Wah and Queen Elizabeth hospitals in Yau Ma Tei, Caritas Medical Centre in Sham Shui Po, and Princess Margaret Hospital in Kwai Chung.

Others in less serious condition were also helped out of the building. Their faces and clothes were smeared with soot.

Hong Kong's leader, Chief Executive Carrie Lam Cheng Yuet-ngor, said she was deeply saddened by the tragedy. Lam said she had told relevant departments to do their best to help the survivors and find out the cause of the fire.

In 2011, nine people were killed and 34 injured in a fire that ripped through Fa Yuen Street in Mong Kok. It was the deadliest blaze in the city in 15 years.

Additional reporting by Rachel Yeo

Entry 4

Nov 27, 23:52 21°C 67% The Student The StandardJobs

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Four poisoned by chicken dish

Local | 26 Nov 2020 9:29 pm

Four people have fallen sick from two suspected food poisoning cases after eating a chicken dish at Chicken Soup Noodle House in Pilkem Street in Jordan, the Center for Health Protection said today.

All the patients were in stable condition as of last night.

In the first case, a 39-year-old man and a 41-year-old woman developed symptoms such as abdominal pains, diarrhea and vomiting within 9.5 to ten hours after consuming the chicken dish at the eatery on November 21.

In another case, two women aged between 32 and 34 developed similar symptoms within 10 to 12.5 hours after eating the same dish from the restaurant on November 22.

The center reminded citizens to maintain personal, food and environmental hygiene so as to prevent food-borne diseases.

Entry 5

否認「信安香港」廣告涉侵權 廣告公司反稱 A A A 指控損名譽 律師籲會面前簽保密協議添保障

2020/12/10 — 17:57

Like 0 f t o e



香港藝術家梁洛熙指，廣告公司 The Bread Digital 為「信安香港」製作的廣告中出現「疑似」藝術家本人的作品內容，批評該公司不尊重。The Bread Digital 發聲明回應否認侵權和挪用的指控，反指藝術家的言論引致公司名譽、金錢損失，將保留一切追究權利。

鑑於雙方曾經畫廊接觸，惟最終未促成合作，熟悉版權法的香港執業律師周博賢向《立場新聞》表示，建議藝術家「起碼在會面之前簽定保密協議 (Non-disclosure agreement, NDA)」，保障自己。

廣告公司反稱指控損名譽

梁洛熙上星期日 (12月6日) 在 [Facebook](#) 發帖主動提及事件，指，「信安香港」的「職人精神 錢幣藝術家發展所長篇」廣告中，出現「疑似」其錢幣藝術作品，而廣告中演員亦以其「辨識度極高的藝術家身份和創作風格」呈現。他表示，廣告公司今年3月曾經聯絡，並向其代理畫廊 La Galerie Paris 1839 查詢委託製作錢幣作品的價格，惟最後以資金不足為由放棄合作。他強調廣告公司未有得到他及其代理畫廊的同意便製作上述廣告，形容做法「不尊重及冒犯」。(詳見另文：[「信安香港」廣告疑侵權 藝術家梁洛熙：保留追究權利 畫廊指創作公司否認抄襲](#))

爭議曝光以來，輿論反應兩極。有人認為廣告公司曾接觸藝術家，後以資金不足為由放棄合作，廣告內容最終出現極相似的作品，做法並不道德。部分網民更到 The Bread Digital 的 Facebook 留言表達不滿。同時，有人認為難以證明「錢幣藝術」乃梁洛熙獨有的創作技巧，甚至進而批評藝術家與畫廊「誹謗」廣告公司。

(Continued Next Page)

事件發酵四日，The Bread Digital 昨日（12月9日）晚上終於在 Facebook 張貼聲明，稱製作「信安香港」廣告過程並沒有對梁洛熙及其代理畫廊作出任何侵權或挪用行為。向香港執業律師尋求法律意見之後，廣告公司引述律師表示有關廣告「並沒有構成侵權及挪用行為」。更進一步，The Bread Digital 反指梁洛熙的指控引致其公司的名譽、金錢損失，將保留一切追究權利。

而 La Galerie Paris 1839 畫廊經理 Fion Ko 接受《立場新聞》查詢時則指，廣告公司方面在周二（12月7日）與他們會面後，就再沒有跟他們聯絡，畫廊方亦正尋求法律意見，商討下一步對策。

藝術家宜於會面之前簽定保密協議

就此事，《立場新聞》聯絡熟悉版權法的香港執業律師周博賢，尋求法律觀點。他形容事件頗為「複雜」，但至少可循侵權、專利、假冒、違反保密協定四個方向分析。

根據現有的公開資料，周博賢判斷「信安香港」廣告片段並不涉及「侵權」。他解釋，版權法涵蓋作品，但不包括意念。創作意念尚未實體化，即不受版權法保障。除非梁洛熙已用錢幣製成世界地圖作品，上述廣告才有可能構成侵權。他又補充，透過使用化學藥水使硬幣加速氧化及變色的創作手法，如若已申請專利亦可循專利權方向跟進，「但似乎藝術家未有就此申請專利」。

藝術家另可經由律師發信提出訴訟，控告廣告公司涉嫌「假冒」其作，但周博賢提醒，較難論證廣告如何作出虛假陳述引致或很可能誤導公眾。鑑於雙方曾經畫廊接觸，惟最終未促成合作，周博賢提到會面前若有簽定保密協議，藝術家或可循違反保密協定方向追索。

事件發展至今，不少藝術界前線工作者大表憤慨，感嘆藝術家容易陷於不利的位置。周博賢建議藝術家「起碼在會面之前簽定保密協議（Non-disclosure agreement, NDA）」，保障自己。

Entry 6

2可疑男夜闖赤柱春坎角獨立屋 遭住戶撞破逃去無蹤



突發

讚好 18

撰文：鄧海興 陳永武 2020-12-14 01:53 最後更新日期：2020-12-14 11:18

周一（14日）凌晨零時許，赤柱春坎角靜修里27號「華慧苑」一幢獨立屋女住戶，突聞屋內傳出怪聲，查看下赫見2名可疑男子身處其在家中，慌忙喝止及報警，對方見狀立即沿山坡樓梯逃去。警方趕抵調查後，證實獨立屋沒有損毀及任何損失，將案件列作「發現可疑人士」處理，現正調查事件。

而在昨日（13日）晚上8時許，附近赤柱村道20號「Vista Stanley」一豪宅單位則被2名賊人爆竊，英籍住戶損失2隻共約值15萬元的名錶、約2,000元港幣及約值1.1萬港元的外幣。

赤柱村道豪宅單位遇竊 英籍住戶失逾16萬元名錶現金

Entry 7

2020年12月20日 時事脈搏

女子等候送檢疫中心死亡 家屬斥當局失當

大圍美林邨一名被列為密切接觸者的62歲女子，日前在家中等候送入檢疫中心期間死亡，其後證實確診。死者女兒趙小姐表示，媽媽獨自在家等候期間，當局一直沒有聯絡她們，亦不讓媽媽自行去醫院檢測，她批評是當局失當，導致媽媽死亡。

趙小姐指，自己是本月8日收到衛生署通知確診，翌日被送到亞博館，媽媽就在家中等候送往檢疫中心，10日與媽媽聯絡，她表示有鼻塞和疲倦，直到11日未能聯絡到媽媽，翌日媽媽的朋友到家中查看，無人應門，於是報警，消防破門入屋終揭發事件。

趙小姐又指，入亞博館前已經向當局表明媽媽有糖尿病、高血壓和高膽固醇，但當局並無派人協助，事發至今，當局亦無與她聯絡或提供援助，要求當局就事件作詳細調查及檢討。

民主黨副主席林卓廷批評政府極度無能，要求當局盡快設立電話熱線，讓確診者及密切接觸者能直接聯絡當局。

Entry 8

國泰旗下公司工作系統不安全 須向工傷女工賠逾34萬元

01月08日(五) 17:06更新
14:20建立

推介 83

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國泰航空旗下的航空膳食服務公司，5年前被一名工傷廚房女工入稟索償。女工表示她在長期面對限時完成工作和加班之壓力下，工作時須在廚房不斷推拉載滿食物的鋼車，和搬運沉重食物盤，結果有次終把肩背拉傷。區域法院法官去年5月開庭審理後，今日（8日）以書面判決，裁定國泰提供的工作安排不安全和不合理，因此須就女工的工傷賠償逾34萬港元。

本案涉及的意外於2013年8月25日發生，原告人陳雅當時是47歲，在被告國泰航空飲食服務（香港）有限公司工作，其職責包括把廚房煮熟的食物，用高近2米、載食物後重達300磅的鋼製手推車，運送至急凍室快速冷凍，然後轉移到其他凍房儲存，之後再由其他同事把食物分到個別餐盤運送上機。由於經濟艙的食物數量較多，被告安排多名員工負責，而原告就須獨力處理頭等艙的食物。

據原告作供稱，8月是航空旺季，她每天都要加班，每日工時超過11.5小時，並要在短時間內處理大量工作。此外由於當時屬旺季，急凍室經常泊滿大鋼車，她在運送塞在房尾的食物時，又要先把其他鋼車推開，有時甚至無法推車，要直接搬運大型食物盤，結果在事發當日弄傷肩背。

法官在判詞表示，聽取原告作供後，認為她教育程度不高，未必能對事實作出準確的描述，說話或時有誇張，但總體上並無說謊。至於被告方面，就沒有傳召證人就廚房的實際運作作供，其他證人在講及事發時急凍室有無「塞車」的情況，亦出現前後不一。法官因此信納原告對事發經過的證供。

(Continued Next Page)

被告提及公司有向員工提供職安訓練，是原告自己選擇不按指引工作才會受傷。原告同意曾經受訓，但就指稱在工作壓力下，根本不可能同時遵守指引又能及時完工。法官接納原告說法，裁定被告提供的工作系統並不合理與安全，它定能預見在原告的工作量下，她必須用自己的方法搬動食物盤。故原告受傷是因被告無負起僱主應有責任及疏忽所致。

Entry 9

新清水灣道10歲女童墮橋 留醫兒童深切治療部 警列疏忽照顧處理



突發

讚好 0

撰文：楊婉婷 林振華 陳浩然

🕒 2021-01-18 18:30

最後更新日期：2021-01-19 01:24

今（18日）傍晚6時02分，警方接獲報案，指於牛池灣新清水灣道38號一間中學對開一條行人天橋，一名身穿校服的10歲女童，由5米高的天橋墮至新清水灣道慢線。救護車接報到場，女童昏迷被送往伊利沙伯醫院治理，幸其後回復清醒。

警方表示，案件暫列「對所看管兒童或少年人虐待或忽略」處理，交由秀茂坪警區刑事調查隊接手跟進，暫時無人被捕，現正調查女童墮橋原因。

據了解，該名10歲小五女童今晨離家前往學校，放學後曾到一間補習社，惟發現自己沒有帶功課，遂折返家中取功課，離開住所後便告失聯，未料到傍晚時份她墮橋受傷，幸無生命危險，現留醫兒童深切治療部。

求助網站和熱線：

香港撒瑪利亞防止自殺會熱線：23892222

醫院管理局精神健康專線：24667350

Entry 10

72歲婦人舒適堡做GYM想退會 被呃350萬現金名錶 警拉27歲男教練

突發

讚好 1,698

撰文：邵沛琳 蔡正邦 2021-01-28 12:33 最後更新日期：2021-01-28 16:01

七旬婦欲退健身中心會籍，反遭「小鮮肉」健身教練呃約350萬元！一名72歲婦人於9年前以200萬元購入舒適堡15年健身會籍，去年9月她希望退回套票及會費，卻誤信一名27歲男健身教練可協助退款，並於一個月內交出260萬元現金、4隻約90萬元名錶給對方，健身教練得款後迅速離職，婦人至上周日（24日）醒覺墮騙案報警。警方追查後昨日（27日）拘捕該名健身教練，案中有其他人協助交接贓物及款項，警方不排除有更多人被捕。消息稱，疑犯與女事主並無感情瓜葛。



(蔡正邦攝)

消息指，遇騙的72歲女受害人已退休多年，退休前在一間NGO任職文員，而被捕的男教練案發時是在九龍灣舒適堡工作。秀茂坪警區刑事調查偵緝總督察鄔凱寧指，女受害人於2012年以健康為由，於九龍灣一間連鎖健身中心，一次性購買15年會籍及相關健身套票，合共繳付約200萬元。其間老婦曾有使用健身中心服務，至去年她因個人原因，希望申請退回有關套票和會費。

據悉，去年9月，老婦向在健身中心一名27歲男健身教練透露想退會，對方即大獻殷勤表示可協助：「只要你畀一啲金錢我哋，就可以幫你退返所有會費。」老婦信以為真，於一個月內多次向交出260萬元現金作手續費，之後她稱已無存款，騙徒遂帶她到店舖購買4隻共90萬元的名錶，她合共交出約350萬元財物。

(Continued Next Page)

男教練得手後迅速離職 據報兩人並無感情瓜葛

老婦不斷付錢卻未能收取退款又聯絡不上教練，始懷疑受騙，並於上週日（24日）報警。至昨日，警方以「欺騙手段取得財產」在大埔一名27歲姓陳男子，他仍被警方扣留調查。據了解，騙徒於九龍灣舒適堡任教，歷年來斷續在上址工作，至去年9月他重返該中心任全職健身教練，但一個月後他再離職，不排除他得手後失聯。案中另有人與騙徒交收有關現金及名錶，警方不排除有更多人被捕。據悉，遇騙女事主與男教練並無感情瓜葛。至於涉事的九龍灣舒適堡，今日則因應政府防疫措施未有營業。《香港01》正向舒適堡查詢有關事宜。

警方呼籲市民提高警覺

警方重申，根據香港法例第210章《盜竊罪條例》第17條，任何人以欺騙手段，不誠實地取得屬於另一人的財物，即屬違法。至於以欺騙手段取得財產是刑事罪行，一經定罪，最高可判處監禁10年。任何違法的人一定要承擔法律責任，市民切勿以身試法。

另外警方呼籲市民提高警覺，市民購買年期較長、金額較大的套票或課程時，應該細心留意當中條款同內容。如對課程及計劃有疑問，應親身向商戶查詢，避免墮入不法分子陷阱，不要輕易將金錢或財物交予他人。如有任何懷疑受騙，應盡快報警求助。

Reflective Media Diary (Part A)
Diary Entries
Tutor's initials: CY

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	Title	Newspaper	Date of Publication	Date of Entry	Word Count
1.	Hong Kong bus crash injuries 24 passengers	SCMP	12/09/2020	14/09/2020	121
2.	Hong-Chi student allegedly abused, resulting in finger fracture	Oriental Daily	20/10/2020	21/10/2020	124
3.	Several dead and injured as fire rips through tenement-building	SCMP	15/11/2020	17/11/2020	122
4.	Four poisoned by chicken dish	The Standard	26/11/2020	28/11/2020	119
5.	BreadDigital denies copyright infringement allegations	Stand News	10/12/2020	10/12/2020	118
6.	Two suspicious persons entered a house without permission	HK01	14/12/2020	14/12/2020	120
7.	Woman awaiting COVID-19 test found dead	HKEJ	20/12/2020	22/12/2020	120
8.	Worker injured under unsafe working system	Oriental Daily	8/1/2021	9/1/2021	119
9.	A 10-year-old girl fell off the bridge	HK01	19/1/2021	19/1/2021	118
10.	Gym trainer scammed \$3,500,000 from a woman	HK01	28/1/2021	28/1/2021	120
Total					1201

Hong Kong bus crash injures 24 passengers
SCMP12/09/2020

A street-cleaning vehicle crashed into a bus when descending a slope, injuring 24 passengers.

The issue is whether the 64-year-old driver of the vehicle fulfilled his duty to care for the passengers.

Old age would not exempt him from the standard of care of competent and experienced motorists (*Nettleship v Weston*).

Res ipsa loquitur could be pleaded as the accident, in the ordinary course of events, would not have happened had the driver exercised proper care by braking (*Scott v London*). Unless the driver provides evidence to rebut the *prima facie* case of negligence, such as a sudden speeding of the bus, damages would likely be awarded to the victims (*Ng v Lee*).

(121 words)

Hong-Chi student allegedly abused, resulting in finger fracture
OrientalDaily-20/10/2020

A mentally handicapped student was restrained in a small room; attempting to close the door, the school's employee fractured the student's finger.

The first possible claim is battery. Although the employee did not intend to injure the boy, her intention to close the door, which ultimately caused the injury, makes her liable (*Wilson v Pringle*).

Another claim is false imprisonment, which is supported by two facts:

- (i) The boy was tied up, leaving him no means to escape. This constitutes a "total restraint" (*Bird v Jones*).
- (ii) He expressly refused to be tied (*Herd v Weardale*).

A risk of harm to the student/others had he been unrestrained can be used as a defence (*Attorney-General v Chan*).

(124 words)

Several dead and injured as fire rips through tenement-building
SCMP-15/11/2020

A fire started in an unlicensed restaurant and spread through a building, which killed and injured many people. The cause is currently unknown, but there was no fire suppression system installed.

The unlicensed restaurant's owner is liable. The victims can plead *res ipsa* because if not for the owner's negligence, normally, a fire would not occur (*Sanfield*).

The but-for test is satisfied. The defendant will plead *novus actus* (*Baker*). The lack of fire suppression might have exacerbated the situation and caused the injury. However, this is common and reasonably foreseeable in old buildings. Thus, *novus actus* would likely be rejected.

The building's owner was also negligent for not installing fire suppression systems.

(122 words)

Four Poisoned by Chicken Dish
TheStandard-26/11/2020

Four people developed food poisoning symptoms after eating the same dish from the same restaurant.

The four people have an action of negligence against the restaurant owner.

It is a direct infliction of physical harm. It is reasonably foreseeable that supplying unsanitary food would lead to poisoning (*Donoghue v Stevenson*). Therefore, duty of care is established.

However, the defendant will dispute the proof of causation. As there were 10 hours between the occurrence of symptoms and the plaintiffs' lunch, the defendant would argue that other independent events caused the poisoning. Nevertheless, given how two separate groups were infected after having the same dish, it is highly probable that the food provided was infected.

(119 words)

BreadDigital denies copyright infringement allegations
StandNews-10/12/2020

Giraffe Leung, an artist, accused BreadDigital, a production company, of using his artwork in an advertisement without obtaining consent. BreadDigital claimed that Leung's statement was defamatory.

Leung can claim for copyright infringement under Copyright Ordinance s22 if his accusation was true.

Leung's claim was defamatory if it:

- (i) Was to the discredit of BreadDigital
- (ii) Lowered BreadDigital in the estimation of reasonable Hong Kong citizens (*Sim*)
- (iii) Caused BreadDigital to be shunned or avoided (*Oriental Press Group*)

Given Leung's seriousness and call for boycott, it was likely defamatory. BreadDigital, as a company with commercial reputation, can sue for defamation (*Ming Kee*). Leung can plead justification by proving that his claim was true.

(118 words)

Two suspicious persons entered a house without permission
HK01-14/12/2020

The tenant of a private house saw two men in her house, who immediately fled when seen.

Although not the owner, the tenant had "sufficient physical control" over the house (*Lam Wing Chung*). She could claim for trespass to land. The defendants' entry was unauthorized and voluntary (*Li Yuen Yi*). Therefore, they would likely be liable for damages.

Nominal damages would be awarded if there was no physical loss (*Tse Soon Cheung*). If the defendants caused damage, for example, broke the window or the door lock, they would be liable for repairment costs (*Shen Xing*).

If the men also committed theft, the tenant could sue for conversion and recover the property.

(120 words)

Woman awaiting COVID-19 test found dead
HKEJ-20/12/2020

A woman suffering from COVID-19 was found dead at home. The Department of Health knew of her symptoms and that her daughter was a confirmed patient.

The daughter can claim for negligence. The Department has to prove that the responsible staff exercised the care of “competent persons possessing the same skill” (*Bolam*).

The daughter claimed that her mother was not able to reach the Department. It also refused to let the mother leave her home for a check in private hospitals. Being difficult to contact and making unreasonable restrictions are arguments for the Department’s incompetence.

The Department will counterargue that because of the fourth COVID-19 wave, it was understaffed and already reasonably competent.

(120 words)

Worker injured under unsafe working system
OrientalDaily-8/1/2021

A worker was forced by Cathay Pacific to push heavy steel carts over extended hours and strained her shoulder. She claimed that she suffered sustained pain and required psychiatric treatment.

The plaintiff was carrying out repetitive tasks under the “pressure of time” (*Cathay v Wong*). It is likely that there will be momentary lapses of attention which would cause injury. Therefore, Cathay Pacific breached its duty to provide a safe working system.

The plaintiff is a primary victim of the incident. Psychiatric injury can be proven by the reasonable foreseeability of the physical injury (*Page v Smith*). If her psychiatric illness is “clinically diagnosable”, such as PTSD, she is entitled to compensation.

(119 words)

A 10-year-old girl fell off the bridge
HK01-19/1/2021

A girl left her school to retrieve her missing homework. On her journey home, she fell off the bridge and was injured.

The school omitted to prevent a minor from leaving school premises, which would foreseeably result in an accident. This nonfeasance is actionable as school/pupil is an established proximate relationship (*Keep Point v Chan*). Although the incident occurred shortly before school hours, the school still had a “positive duty to protect students” (*T v Kan*). The school is likely liable for negligence.

Although guardian/child is also an established relationship, the girl’s mother was not notified of her absence. She had fulfilled her duty by bringing her child to school.

(118 words)

Gym trainer scammed \$3,500,000 from a woman
HK01-28/1/2021

A woman wanted to withdraw her gym membership. Her trainer fraudulently requested \$3,500,000 from her as “withdrawal fee” and fled afterwards.

If the scammer is caught and the money is not spent, the woman can claim for deceit and require compensation.

It is unforeseeable that a gym employee would defraud his customers. Therefore, the gym owner will be liable only if he knew of the trainer’s intention to commit fraud and did not stop it.

Although the scammer had allegedly defrauded more people in the past, there was no special risk associated to the woman, and the trainer was never in police custody (*Dorset Yacht*). Thus, the police are likely not negligent.

(120 words)

Reflective Media Diary (Part B)

Tutor's name: Cordelia Yeung

82

Part A Word Count: 1201

Part B Word Count: 1799

Total Word Count: 3000

Selected news items:

- 1. Several dead and injured as fire rips through tenement-building**
- 2. Bread Digital denies copyright infringement allegations**

Several dead and injured as fire rips through tenement-building

Background and subsequent reports

A fire started in an unlicensed Nepalese restaurant and spread through a tenement-building. Seven people were killed. Initially, the cause of the fire was unknown, but it was reported that there was no fire suppression system installed.

Subsequent reports have shown that the fire started when a candle lit a wooden insulation board in the restaurant (**Appendix 1**).

Tort liability

Pursuant to the Fatal Accidents Ordinance (Cap 22) s3, family members of the deceased could bring negligence actions against the restaurant owner (“D1”) and the owner of the building (“D2”). The analyses are outlined below:

Negligence claim against D1

(a) Duty of care

The fire started in D1’s restaurant inflicted direct physical harm by burning and suffocating the victims. Consequently, we should apply the test for reasonable foreseeability only (*Alcock v Chief Constable* [1991] UKHL 5). It is foreseeable that a fire will catch on when candles are placed near a wooden board, which is moderately combustible. Thus, a duty is established.

(b) Breach

The standard is that of a reasonable person in the circumstances (*Glasgow Corp v Muir* [1943] HL). As mentioned, it would be noticeably dangerous to put fire near flammable objects. Furthermore, the potential danger of a fire is much larger than the effort required to move the candles away from the board (*Tomlinson v Congleton Borough Council* [2003] UKHL 47). It is therefore likely that D1 has breached his duty.

(c) Causation

If not for the burning of the wooden board, the fire would not have started. The but-for test is satisfied (*Barnett v Chelsea and Kensington Hospital Management Committee* [1969] QB).

The controversial part is whether the absence of a fire suppression system constitutes *novus actus interveniens*. This is a negligent act by a third party. Nonetheless, in an old tenement-building, it is foreseeable that the suppression system might be out of date. As D1 should have reasonably foreseen this risk, a *novus actus* plea will likely not succeed (*Knightley v Johns* [1982] WLR 349).

(d) Remoteness

This test concerns the type of injury, but not the extent or manner of occurrence (*Overseas Tankship v Morts Engineering* 1 All ER 404). Burn and suffocation are foreseeable consequences of a fire. Thus, death from burn and suffocation is also not remote (*Leech Brain v Smith* [1962] 2 QB 405).

(e) Defences

There is no evidence to show that the deceased partly caused the accident, worsened the situation or committed illegal acts. Contributory negligence and *ex turpi* claims are unlikely to succeed.

Although the deceased walked into the building voluntarily according to their free will, they would not have reasonably anticipated a fire accident. Without the plaintiff's knowledge of the risk, a *volenti non fit injuria* plea is also likely to fail (*Imperial Chemical v Shatwell* [1965] AC 656).

In conclusion, D1 is likely negligent and liable for damages.

Negligence claim against D2

Occupier's liability

The claimants can rely on the Occupiers Liability Ordinance (Cap 314) ("**OLO**") to establish a duty of care and a breach. Although D2 rented his flats to tenants, the common area was under his control (*Miller v Hancock* [1893] QB 177). The victims were visitors as they were impliedly permitted to use the common area under OLO s4(1). The "common duty of care" is automatically imposed under OLO s3(1).

Regarding the standard of care, OLO s3(2) provides that D2 should see that the visitors will be reasonably safe in the circumstances. OLO s3(3) provides that D2 should take into account special risks. Applying the factors in *Tomlinson*, a fire can cause severe injuries, and the cost to install suppression systems is quite affordable for a property owner. Thus, D2 likely breached his duty.

The remaining components of the claim are uncontentious, and the analysis is similar to that of the claim against D1. So, it is likely that D2 is also liable for damages.

Policy Issues

When there are multiple tortfeasors in one case, a defendant can seek contribution from co-tortfeasors under the Civil Liability (Contribution) Ordinance (Cap 377) s3(1). Apportionment will be assessed as in contributory negligence cases, by considering causation and blameworthiness.

Nevertheless, in reality, plaintiffs often recover the total amount of damages from one pecunious tortfeasor. The pecunious tortfeasor then has to collect contributions from other defendants. As the other defendants might be financially unable to pay their contributions, the pecunious tortfeasor might in turn have to be responsible for much more than that originally required. This happened in *Aberdeen Winner v Incorporated Owners* [2004] 3 HKLRD 910, where a party, found 15% liable, had to pay 3 times as much due to the bankruptcy of other co-tortfeasors.

Even though D1 might be more blameworthy as the candle is the direct cause of the fire, he is destitute and unprotected by insurance. It is clear that D2 will have to pay for most of D1's liability. The court faces a policy dilemma here: is it more unjust to force D2 to pay more than that he should be liable for? Or is it more unjust to leave the plaintiffs undercompensated? The

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current approach is to protect the plaintiffs as much as possible, but I think the court should consider offering more protection to the defendants. An example can be capping each tortfeasor's liability at a particular percentage with statutes, which many scholars have suggested before ("*Professional Negligence: to Cap it All?*", *The Lawyer*, June 2004, p 42).

Bread Digital denies copyright infringement allegations

Background and subsequent reports

In a statement on his Facebook page, local artist Giraffe Leung accused production company Bread Digital (“BD”) of using his distinctive art style in an advertisement without his consent (**Appendix 2A**).

In response, BD published a statement denying the accusation, claiming that it has suffered financial and reputational loss. It would seek legal advice and might pursue further legal actions against Giraffe (**Appendix 2B**).

Tort liability

BD can file a defamation claim against Giraffe Leung.

Availability of action

The alleged defamatory statement (“I suspect someone used my publicly recognised artistic style to increase sales”) was in a Facebook post. In contrast to spoken words, this is a statement that exists persistently and can be copied and shared. This statement can be classified as a “libel”, which is actionable *per se* (*Allsop v Allsop* (1860) ER 1292).

Although most defamation claims are brought by people, corporations with a commercial reputation to protect can also sue (*Ming Kee v Man Shing* [1992] HKLR 357). Since BD is an advertisement company, its brand image and reputation directly affect the effectiveness of its promotion. Thus, the action can likely be instituted.

Whether the statement is defamatory

A statement is defamatory only when it references the plaintiff. In this case, although Giraffe did not explicitly mention BD’s company name in paragraph 4 (he mentioned “I suspect **someone**...”), he outlined his previous history with BD in the first two paragraphs. It is likely that a reasonable person will make the connection and understand that “someone” refers to BD (*Wong Ying Chow v Wong Hang Yin* [2010] HKEC 765). Thus, there is reference to the plaintiff.

Then, we consider the substance of the claim. A defamatory statement “exposes the claimant to hatred, contempt and ridicule” (*Oriental Press v Immediate.net Ltd* [2012] 2 HKLRD). The basis of the judgment is how “a reasonable ordinary person would think” (*Byrne v Deane* [1937] 1 KB 818). However, unless the context shows that the allegations were seriously meant, the statement-maker would not be liable (*Parkins v Scott* (1862) H&C153).

Giraffe’s words were likely defamatory because he clearly stated that his creative style was replicated in the advertisement and that he did not give permission to BD. This implied that BD was dishonest in producing the clip. Although a Facebook post would ordinarily not be regarded as serious, his tone and choice of words were formal, and he indicated that the post was to be taken seriously in the first paragraph. Posting the passage on his official page also demonstrated his intention for the public to know of the incident.

Defences

Giraffe could plead justification. He has to prove that BD did steal his work and display it to the public. If the responsible staff is subsequently convicted under the Copyright Ordinance (Cap 528) and sentenced to a fine exceeding HK\$10,000, he could also rely on Evidence Ordinance (Cap 8) s64(1) to prove conclusively that copyright infringements did happen.

Giraffe could also plead “honest comment”. For this defence, he has to fulfil the fivefold burden of proof:

(a) Public interest

Respect for copyright certainly falls within the scope of public interest. As expressed by the Hong Kong Artist Union (**Appendix 2C**), disrespecting copyright might discourage creativity and cause unfairness. It is important for the sake of public interest to disclose BD’s alleged malpractices.

(b) Statement of comment / fact

Before stating that BD used his work, Giraffe wrote that BD had previously asked him to recreate the artwork in an advertisement (**Appendix 2A**, Paragraph 2). He persuaded readers by showing that BD had interest in using his work. A statement with the element of persuasion is likely one of comment (*Centa-City Index v Hong Kong Economic Journal Co* [2016] HKC 53).

(c) Factual basis

As the artwork in the advertisement bears significant resemblance to Giraffe’s work (**Appendix 2D**), his claim is likely factually based.

(d) Indication of the facts on which the comment was made

As mentioned, Giraffe wrote about his previous dealings with BD that led him to believe in the claim. It gives room for the readers to judge whether to believe him after understanding the facts.

(e) Honesty

Giraffe needs to prove that his claim was consistent with his belief. More evidence is needed here, for example, the contract or meeting record between him and BD.

In conclusion, Giraffe’s statement is probably defamatory. Giraffe should plead justification and honest comment, but more facts are needed to determine whether the pleas would be successful.

Policy Issues

The policy on defamation involves a balance between freedom of speech, right to know and protection of reputation. If Giraffe is held liable, future victims of intellectual property theft might feel insecure to expose the perpetrator. This might exacerbate the problem of uneven bargaining power between artists and production companies.

Extending this to media in general, if the burden of proof for defamation is light, it might force the media to self-censor and avoid sensitive issues, which would hamper the general public’s access to knowledge. Common law jurisdictions emphasise press freedom and rights, and

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constructive criticism are welcomed for the society's further improvement. Therefore, in general, I think the court should be reluctant to hold the defendant liable in defamation cases, unless it is obvious that the defendant is malicious and dishonest.

Appendix 1: A subsequent report on the fire

油麻地唐樓大火釀七死十傷 消息指疑生日會蠟燭致火警

2020年11月16日 03:32

【Now新聞台】油麻地一幢唐樓發生火警，造成七人死亡，十人受傷，全部死者為南亞裔人士，年齡9歲至40歲，起火單位是一間尼泊爾餐廳。消息指，至少十人包括死傷者，當時正為小朋友舉辦生日會，懷疑有蠟燭燒着隔音板引起火警。

起火單位火光熊熊，火舌由窗口冒出，冷氣機亦被燒着。

從高處亦看到火勢，期間火勢突然變得猛烈，消防員向單位射水，火勢才慢慢減弱。

消防員由大廈救出多人，有人被救出時昏迷，用擔架床被送上救護車，期間用儀器施心外壓。

有傷者面部熏黑，消防員不停為他急救。另一名傷者被救到地面，消防員及警員輪流搶救。

部分人在路邊接受初步治理，有人頭部受傷，需要戴上氧氣罩。

有人離開起火大廈後情緒激動。

目擊者：「我看到有煙，之後突然從窗內見到有火，十分恐怖。」

火警發生在廣東道560號一樓一個開放式單位，面積約5米乘15米，消防周日晚八時許接報，到場後派員進入單位，發現內有很多餐枱的佈置，有多人被困。

警方油麻地分區指揮官林以恒：「其實該單位是一個普通住宅單位，從樓梯上去起火單位只有一個門口出入。我們的同事入內救援時，因為火勢猛烈，所有待救的市民都是在單位內接近廚房最深處的位置。」

有四人就從單位的洗手間跳下樓逃生受傷。

警方初步調查後說，死者是親友關係，懷疑當時有人正在聚會。

消防處消防區長(九龍南)張廣源：「警方初步調查後顯示，上址懷疑是一間餐廳，當時正有人進行慶祝活動，期間有物件著火，火勢迅速蔓延令到死傷者走避不及。」

警方會調查涉事餐廳是否無牌經營。

消息就指，現場是一間尼泊爾餐廳，當時有至少十人正在參與為小朋友舉行的生日會，有傷者稱看到，有燃燒的蠟燭放於地上，有可能燒着旁邊的隔音板，引致火警。

Appendix 2A: A screenshot of Giraffe Leung's statement



Giraffe Leung Lok hei

2020年12月6日 · 🌐

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澄清聲明 - 香港藝術家梁洛熙

本人梁洛熙就近日信安香港 (Principal Hong Kong) 發佈的一系列強積金平面及影片宣傳廣告「#職人精神 #錢幣藝術家發展所長篇」，最近收到大量查詢，在此，本人作出嚴正聲明及澄清，此宣傳廣告及於廣告中出現的錢幣作品與我本人絕無任何關係。

本地廣告製作公司The Bread Digital 曾於今年三月聯絡本人及本人之代理畫廊 La Galerie Paris 1839，其一，希望邀請本人參與拍攝「#職人精神 #錢幣藝術家發展所長篇」，扮演廣告中錢幣藝術家一角，並於廣告中創作一幅錢幣作品，而劇本內容主要是根據我作為藝術家的身份及藝術創作風格去構想。其二，向本人及本人之代理畫廊查詢委托本人定制一幅錢幣作品的價格以作參考。最後廣告公司以資金不足為由，表示放棄合作。

直到最近，本人發現此段故事情節，配以疑似本人的錢幣藝術作品的一系列宣傳廣告，廣泛地出現在社交媒體及港鐵站，而廣告中演員亦以本人辨識度極高的藝術家身份和創作風格呈現。廣告公司在完全沒有得到本人及本人之代理畫廊同意的情況下製作此宣傳廣告，此舉對於本人及每一個從事藝術創作的作者實屬極其不尊重及冒犯，對此本人深表遺憾。

鑒於是次事件懷疑有人利用本人已被公眾認可之藝術創作風格及良好的藝術家聲譽以作銷售招來，藉此誤導大眾。任何偽冒本人名義及本人藝術創作風格之行為，本人及本人之代理畫廊保留一切冒認藝術作品之法律追究權利，特此澄清。

Appendix 2B: A screenshot of Bread Digital's statement



The Bread Digital
2020年12月9日 · 🌐

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嚴正聲明

The Bread Digital就梁洛熙先生 Giraffe Leung Lok Hei (下稱「梁先生」)於2020年12月6日在其 Facebook 及 Instagram 上發出有關本公司製作的Principal 信安香港廣告系列貼文作出以下嚴正聲明：

本公司現聲明在製作該宣傳廣告過程中並沒有對梁先生或/及其代理畫廊La Galerie Paris 1839作出任何侵權或挪用行為。

梁先生沒有參與此廣告的製作過程，亦與該廣告中所呈現的任何人物和事件無關。

為了審慎起見，本公司亦已就事件向香港執業律師尋求法律意見。律師亦已表示同意本公司的有關廣告並沒有構成梁先生所指的侵權及挪用行為。

對於梁先生作出的指控及陳述所引致本公司之名譽或金錢損失，本公司保留一切追究的權利。事件亦已交給本公司律師處理。

The Bread Digital

Appendix 2C: A screenshot of Hong Kong Artist Union's statement



香港藝術家工會 Hong Kong Artist Union

2020年12月8日 · 🌐

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香港藝術家工會近日獲知，香港藝術家 #梁洛熙 Giraffe Leung Lok hei 疑被本地廣告製作公司The Bread Digital在未經同意情況下，挪用其創作概念及真人故事，從事商業廣告製作出 #信安香港 (Principal Hong Kong) 的一系列強積金平面及影片宣傳廣告「#職人精神 #錢幣藝術家發展所長篇」。梁氏早前已作出公開聲明及嚴斥事件，此宣傳廣告及於廣告中出現的錢幣作品與他本人絕無任何關係。

本工會認為事態嚴重侵佔創作者的知識產權及對影響藝術家的權益。香港藝術家工會及業界，一直致力關注保護知識產權即保護人的創意，維護及尊重創作者的心血，期望共同創建公平自由的環境，讓創作者發揮創意，使其辛勤工作得到回報。

香港藝術家工會就事件，對The Bread Digital廣告製作公司疑盜取藝術家創作概念及廣告商更利用藝術家已被公眾認可之藝術創作風格和聲譽以作銷售招來，藉此誤導大眾，本工會予以強烈譴責。

本工會較早前已就事件與藝術家聯絡，祈傳媒朋友及公眾對非常挪用藝術家心血資產事件加以關注報導，取回公道。如有任何查詢，歡迎隨時聯絡本工會及藝術家本人👤

Appendix 2D: Comparison between Giraffe's work and the advertisement



WRITTEN ASSIGNMENT MARKING RECORD – Reflective Media Diary Part A (50%)

ACADEMIC YEAR: 2020 - 2021	
SUBJECT: LLAW1005 & 1006 Law of Tort	
University No:	Mark
Name of Marker: CY	
Diversity of legal subject matter in selected news items 20% Good use of diverse sources Very good and interesting selection of news articles showing a diversity of legal subject matter	
Organization/presentation/literacy 10% Very good organisation, presentation and literacy Good writing style overall	
Follows instructions/authenticated diary 30% Good overall	
Legal relevance of selected items, identification of and discussion of legal issues 40% Item 10: what about constructive notice? Also consider the issue of restitution Good selection of items that are legally relevant Good effort made in selecting challenging legal issues Good use of precedents overall Interesting insights and good application of law to facts	
Part A Total:	A

[Numerical mark (using the 0-100scale) should be awarded]

Reflective Media Diary Part B (50%)

<p>Selection of news items that demonstrates important/relevant legal issues 10%</p> <p>Very good</p>	
<p>Organization/presentation/follows instructions/literacy 10%</p> <p>Very good organisation, presentation and literacy Excellent writing style “HKEC” is how Westlaw categories some of its cases – this is not the right way to cite unreported cases</p>	
<p>Legal analysis/application of law to facts/familiarity with legal doctrine and case authorities (and legislation if relevant)/discussion of social policy issues 80%</p> <ul style="list-style-type: none">• Generally good legal analysis and application of law to facts• Confident and interesting conclusions drawn• Able to pick out issues that are relevant and controversial• Very good understanding of legal doctrine and use of case authorities• In respect of social policy issues in item 1, comments are not relevant – the focus should be on the Government’s failure to monitor such old buildings• In respect of item 2, the FB statements constitute a statement of fact, thus it would be more suitable to make an argument of responsible journalism (cf. honest comment)• In item 2, can focus on social policy issues that are more specific to this case beyond general statements on defamation, e.g. the link between defamation, copyright, and art	
<p>Part B Total:</p>	<p>A</p>
<p>RMD Total:</p>	<p>A</p>

[Numerical mark (using the 0-100 scale) should be awarded, in addition to the equivalent letter grade]