

**COUNCIL OF LEGAL EDUCATION**

**NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2006**

**CIVIL PROCEDURE & PRACTICE 1**

**(TUESDAY, AUGUST 8, 2006)**

**Instructions to Students**

- (a) Time: **3½ hours**
- (b) Answer **THREE** questions from Part A and **TWO** from Part B.
- (c) **Answer Part A and Part B on separate answer booklets.**
- (d) In answering any question, a candidate may reply by reference to the law of any Commonwealth Caribbean territory, **but must state at the beginning of the answer the name of the relevant territory.**
- (e) It is unnecessary to transcribe the questions you attempt.
- (f) Answers should be written in ink.

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**PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.**

## **PART A**

### **QUESTION 1**

Monique visits your office and instructs you as follows:

On February 16<sup>th</sup>, 2005, she rented a ballroom at the Sherborne Conference Centre, owned by the Government of your country, and held a smashing 40<sup>th</sup> birthday party. However, when one of her close friends Colleen was leaving the party, she slipped and fell.

Colleen subsequently instituted an action against Monique claiming damages for injuries sustained as a result of her fall. In her particulars of claim/statement of claim, Colleen alleges that the floor was very slippery.

The claim form and particulars of claim/statement of claim were served on Monique on May 20, 2006. Monique went to the Conference Centre to discuss the matter with the Manager but he was not in. Instead she spoke to one of the cleaners who informed her that on the day of the party, they had polished the floor and one of the cleaners had actually applied too much polish to the floor area near to the door.

Advise Monique on how you will proceed on her behalf.

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## **QUESTION 2**

On December 9, 2005 you filed a claim form and particulars of claim/statement of claim on behalf of your client, Maxi Bailey, claiming damages for personal injury, loss and damage occurring as a result of an accident which took place on February 9, 2004 at Rock Hall in the parish of St. Peter.

The defendant, Roger Moore, resides at Norfolk, Montreal, Canada.

Advise Mr. Bailey how you propose to bring notice of the proceedings to Mr. Moore's attention.

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## **QUESTION 3**

John DeNiro is a furniture maker who entered into a written agreement dated March 13, 2004, to supply a dining table to Marjorie Lowe for the sum of \$300,000. On June 12, 2004, the table was delivered to Ms. Lowe and an invoice issued to her for payment. Ms. Lowe refused to pay for the table stating that she was unhappy with the quality of the workmanship.

John DeNiro wishes to institute legal proceedings against Ms. Lowe and asks you to act on his behalf. His instructions are that the table was in accordance with the contractual terms and of the best quality. Mr. DeNiro wants the matter dealt with as quickly as possible.

- (i) Outline the procedure you would adopt to obtain judgment as quickly as possible.

- (ii) Outline the contents of the documents you would use in support of the application.
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**QUESTIONS 4 AND 5 ARE BASED ON THE FOLLOWING FACTS:**

On April 12, 2004, Shelley Grant, a 22 year old hairdresser from Belmont Road in the City of Roseau, was a passenger in a taxi owned and driven by Mark Thompson of 10 Sunset Crest in the parish of Saint James. The taxi was traveling very fast in a southerly direction along Bayshore Avenue in the City of Roseau when it veered off to the left side of the road and collided with a tree.

Shelley was taken to hospital where she remained for 6 weeks having suffered a fracture of the right femur and lacerations and abrasions of the left hip. Shelley's hospital bill was \$340,000. Shelley's doctor, Rihanna Shay prepared a report dated May 15, 2005, in which Shelley's injuries were detailed.

Shelley's husband, Gregory, took three weeks off work to assist Shelley at home but was not paid by his employer and as a result lost earnings at the rate of \$50,000 per week.

In addition, Shelley is unable to stand for long periods to work as a hairdresser and her earnings have been reduced from \$10,000 per week to \$5,000 per week.

Shelley and her husband now come to you and ask you to initiate proceedings on their behalf.

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#### **QUESTION 4**

Advise the Grants as to the legal issues you will consider before initiating proceedings.

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#### **QUESTION 5**

Draft an appropriate statement of claim/particulars of claim.

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### **PART B**

#### **QUESTION 6**

Aliyah Howard, a single 27 year old woman, gave birth to Terrence on October 13, 2005.

Aliyah instructs you that Don Keaton is the father of the child but that he refuses to acknowledge the child as his and to offer financial support.

Advise Miss Howard on the steps that you propose to take to solve her problem and the matters that the court will consider in granting any order sought.

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**QUESTIONS 7 AND 8 ARE BASED ON THE FOLLOWING FACTS:**

Jennifer and Bradley Smith were married on June 14, 1995.

There are 3 children of the marriage namely Robert, born on July 10, 1996, Maria, born on August 17, 1997 and Stefanie, born on February 12, 1999.

Jennifer and Bradley are both civil engineers and they own their own consulting firm which they established four years after they were married. The firm is very successful with both Jennifer and Bradley contributing equally to the earnings of the firm.

In March 2000, the Smiths purchased a home at Clifton Heights in the parish of St. Thomas and had lived there until recently. The property was purchased in the name of Bradley only. The deposit on the purchase price was paid from the earnings of the consulting firm and a mortgage was obtained to complete the purchase of the property. The monthly mortgage installments are paid from the earnings of the consulting firm.

In April of 2006, Jennifer discovered that Bradley had become involved with Angelina. Jennifer confronted Bradley who confessed and indicated that he had become “a little bored” with the marriage and Angelina was a “nice” distraction.

Jennifer moved out of the matrimonial home at the end of April, taking the children with her. She continues to work at the firm.

### **QUESTION 7**

Jennifer visits your office and expresses concern about the fact that the title documents for the matrimonial home are in Bradley's name only. She is of the view that she has an interest in the property and would like to have "something in her hands" which shows her interest.

Advise Jennifer.

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### **QUESTION 8**

Jennifer also instructs you that Bradley has not contributed towards the maintenance of the children since she moved out of the matrimonial home.

Advise Jennifer.

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