

**COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 2024**

**CIVIL PROCEDURE AND PRACTICE II
(MONDAY, JULY 29, 2024)**

Instructions to Students

- (a) Time: **3 ½ hours**
- (b) Answer **ALL** questions from Part A and Part B.
- (c) Answer Part A and Part B on separate answer booklets.
- (d) In answering any question, a candidate may reply in accordance with the law of a Commonwealth Caribbean territory zoned for this school, **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 black or dark blue ink. Erasable pens are not allowed.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

PART A

The facts below relate to both questions 1 and 2.

You are an associate attorney-at-law in the firm Wheeler Beacher & Brave.

The firm acts for and on behalf of Good Vibes Events Limited (Good Vibes), an event planning limited liability company duly registered under the laws of Jurisdiction. Good Vibes is the defendant in a negligence claim for damages resulting from an incident which occurred on March 23, 2022.

Ainsley Shettleford, the claimant, is represented by the firm Handles, Feete & Climb. Shettleford, a partner at the Gracious Medicare Centre, is a surgeon and cardiologist with over 20 years' experience in the field.

The claim, filed August 2, 2022, alleges that Shettleford, while attending a soca fete hosted by Good Vibes, was dancing with his wife enjoying the music, when a tent, under which he was standing, collapsed. He was struck in his head by one of the poles in the tent and sustained injury to his head. He also suffered a broken arm when a light fixture, affixed to the top of the tent, fell on top of him. Shettleford claims to have suffered a fractured skull and resulting paralysis on his left side, as well as a broken right arm.

Shettleford's salary prior to the incident exceeded US\$500,000 per year. He has not been able to operate on anyone since the accident and his earnings have been reduced to US\$10,000 per year.

Shettleford, on behalf of the Gracious Medicare Centre, engages, from time to time, by way of contract for services, specialist doctors. One such doctor is Dr. Jerry Minefield, a paediatric psychologist.

QUESTION 1

- (a) At the case management conference held on September 19, 2023, an order was made for standard disclosure to be completed on or before November 30, 2023 and inspection on or before December 31, 2023.

Instructions:

Draft a letter to your client advising it of salient information regarding the order.

(b) Your client conducts a reasonable search and provides you with the following documents:

- (i) Letter dated April 5, 2022, from Handles, Feete & Climb to Good Vibes demanding that Good Vibes make good on the losses suffered by Shettleford by April 30, 2022, and indicating that failure to do so would result in a claim being filed.
- (ii) A report of the incident dated May 26, 2022, produced by Assessors Limited. Assessors Limited had investigated the incident. The report indicated that the incident resulted partly from a defect in the tent. It had been purchased from online shipping giant Rainazon.com. The report further found that the tent had not been properly assembled by persons engaged by Good Vibes. The report had been commissioned by the President of Good Vibes, upon receiving the demand letter, with a view to deciding how to respond to any litigation that could be pursued by Shettleford.
- (iii) Letter dated June 2, 2022, from Wheeler Beacher & Brave to Good Vibes advising them to settle the claim for a sum the equivalent of US\$1,000,000 in your currency, as their defence was weak.
- (iv) Copy 'Without Prejudice Letter' from Wheeler Beacher & Brave to Handles, Feete & Climb dated August 16, 2022, offering to settle the claim for a sum the equivalent of US\$500,000 in your currency.
- (v) Without Prejudice letter dated August 23, 2022, from Handles, Feete & Climb to Wheeler Beacher & Brave rejecting the offer of a sum the equivalent of US\$500,000 in your currency, and indicating that Shettleford was willing to accept a sum the equivalent of US\$1,500,000, in your currency in settlement of the claim.
- (vi) Letter dated August 21, 2023, received from Handles, Feete & Climb to Wheeler Beacher & Brave reminding them of the date of the case management conference.
- (vii) Statements of case, applications and affidavits filed in the claim.

Your client further reports to you that they had been in possession of an instruction manual for the construction of the tent, but that it was discarded after the first time the tent was used.

Instructions:

Prepare the following documents:

- I. the list of documents; and
- II. a file note explaining your treatment of the documents described at items (i), (ii) and (vi) above.

(The relevant form is provided.)

QUESTION 2

The orders given at the case management conference including the exchange of witness statements have been carried out.

Recently, Shettleford applied for permission to rely on the said Dr. Jerry Minefield, as an expert.

Fletch Carafe, head of your firm's litigation department, discusses the matter with you and states that you are to attend the hearing and oppose the application.

You are unsuccessful in opposing the application. The Judge's decision was expressed as follows:

The Defendant opposed the application for permission to rely on the expert evidence of Dr. Minefield, but I consider there to be no merit in the Defendant's position. I also consider that an appeal would have little or no chance of success.

The Court therefore orders as follows:

(a) The Claimant is permitted to rely on an expert report to be prepared by Dr. Minefield.

(b) Costs of this application are to be paid by the Defendant to the Claimant.

(c) Leave to appeal refused.

(d) The Claimant is to prepare, file and serve this order.

Following the decision, you attend a meeting with Carafe and he discusses with you the purpose of appealing the decision.

Carafe asks you to send him an opinion on the steps to be taken to appeal the Judge's decision, the possible ground(s) of appeal, with supporting arguments, and the likely success of the appeal.

Instructions:

Prepare the opinion.

PART B

LAW OF ASSOCIATION

(This Part must be answered on a new answer booklet and titled Part B)

QUESTION 3

You are a new associate at Mayfair Chambers, a prominent law firm in Jurisdiction. The firm handles legal matters for José Signorelli. Your Supervising Partner, Anthony Kotterel, has conducted José's matters. José is the sole shareholder and one of two directors of Motores Veloces S.R.L., a private limited liability company incorporated in Santo Domingo, Dominican Republic. The other director is John Quinones.

Mr Kotterel has handed you a file, which contains the following email from José:

From: jsignorelli@gmail.com

July 26, 2024 at 5:00 p.m.

Subject: New Matters

To: kotterela@mayfairchambers.com

Dear Anthony,

I am writing to get your advice on some matters I am actively working on.

John and I are exploring the possibility of expanding the operations of our vehicle fabrication and enhancements business in Motores Veloces S.R.L. (the Company) to Jurisdiction. Our other businesses here are doing well. I think there is an uptick in interest in motor wrapping and other vehicular enhancements in Jurisdiction. We have the expertise and materials and we can easily export them here.

We are not sure whether we should incorporate a new company for the purpose or simply establish a branch of the Company. We want to start small with just John and me as shareholders and directors if we form a new company. When we incorporated a company here 15 years ago the costs of incorporation were not substantial, I am not sure what the process is like now. Let me know how both processes work so that we can decide.

We are looking to move on things before the summer so I would appreciate your getting back to me as soon as possible.

Best regards,

José

Mr. Kotterel has asked that you draft a letter to the client for his signature:

- (a) advising on the type of company which, given your instructions, would best suit his needs and detailing the steps and documents required to incorporate the company in your jurisdiction; and
- (b) outlining the procedure for establishing a branch of the Company in your jurisdiction.

END OF PAPER