

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

**LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, 2025**

CIVIL PROCEDURE AND PRACTICE II

(WEDNESDAY, MAY 14, 2025)

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 in 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.
- (g) Calculators may be used and are provided.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

PART A

Instructions:

All figures referred to in the paper are stated in United States currency.

The claim is not, however, one for United States currency.

You may either:

- (i) use the figure as is, assuming that it is sufficient for the matter to be before the Supreme/High court of your jurisdiction; or
- (ii) update the given figure to an equivalent sum in the currency of your jurisdiction, using the following exchange rates.

- Jamaica: J\$158.00 - US\$1.00
 - OECS: XCD\$2.70 - US\$1.00
 - Belize: BZD\$2.00 - US\$1.00
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The following facts should be used to answer both Questions 1 and 2.

You are an associate at the firm Scruples and Qualms, Attorneys-at-Law of 1410 River Road in Capital City, Jurisdiction. Scruples and Qualms act for Boss Gyms Limited (BGL), one of the Defendants, in a claim for damages for personal injuries commenced in the High/Supreme Court of Jurisdiction on November 12, 2024, by Jonathan Karver. BGL is the owner and operator of a chain of gyms in Jurisdiction. The other Defendant, Superior Equipment Limited (SEL), is the manufacturer of still rings (an apparatus with rope-suspended rings) and supplied it to BGL.

Karver avers that, on September 23, 2023, he was a member of BGL's Capital City gym and a participant in BGL's *Spartacus Competition* at the Capital City gym. He says further that he swung from the still rings and fell and hit his head on the ground after the ropes dislodged from the metal bar which formed a part of the still rings. As a result of the fall, he has sustained injuries and suffered loss.

At a case management conference held on February 14, 2025, the court made orders including that:

1. *Standard disclosure on or before May 23, 2025.*
2. *Inspection of documents on or before June 6, 2025.*
3. *The parties to file and exchange witness statements on or before July 17, 2025.*
4. *Pre-Trial Review is scheduled for September 23, 2025 at 11 a.m. for 1 hour.*
5. *Trial is fixed for October 28, 2025.*

Following receipt of the firm's letter outlining BGL's duty to make standard disclosure and after conducting a search, BGL produced the following documents:

- (i) Letter dated November 14, 2024 from BGL to Scruples and Qualms enclosing the statements of case in the claim.
- (ii) Photographs of the still rings taken by a BGL manager, Carl Peters, after the incident on September 23, 2023.
- (iii) Without prejudice letters dated September 30, 2024 and October 7, 2024 between the Claimant's attorney-at-law, Ryland Prevale, and BGL's Chief Executive Officer (CEO), Helen Straker, discussing a settlement of the matter out of court.
- (iv) Copy report from Allied Engineering dated September 25, 2023 which was commissioned by BGL to determine the cause of the dislodgement of the ropes from the metal bar in the still rings. The original cannot be located.
- (v) Letter dated December 16, 2024 from Scruples and Qualms to BGL's CEO, Helen Straker, advising on its potential liability for the claim and the likely award for damages.
- (vi) Participant Waiver of Liability for Spartacus Competition dated September 23, 2023, and signed by the Claimant.

QUESTION 1

- (a) Prepare the List of Documents to be filed on behalf of BGL in compliance with the order for standard disclosure. (The relevant form is provided.)

(b) Explain your treatment of the document at (iv) above.

(c) Assume the List of Documents has been filed as required and inspection of documents permitted. Further assume that the letter at (v) above was disclosed in the List of Documents at Schedule 1, Part 1 and allowed to be inspected by the Claimant's attorneys-at-law.

Advise on the Claimant's ability to rely on the letter and the steps the Defendant can take to prevent the Claimant from relying on the document.

(d) It is now one week before the trial of the matter. A witness statement was filed and served for Carl Peters, who was employed to the Capital City gym as its manager at the time of the incident. Peters is currently unemployed and has moved out of Capital City. He says he will not attend the trial. BGL is concerned because they consider Peters' evidence to be critical to establishing their case that Karver's conduct resulted in his fall.

Advise on the steps to be taken to address the client's concern.

QUESTION 2

Assume it is now October 23, 2025, a few days before trial. BGL has provided the firm with a further report they received from Allied Engineering. The report discloses that the accident was likely caused by BGL's failure to adequately maintain and repair the still rings. Although they are insistent that (notwithstanding the report) Karver failed to take care when approaching the still rings, BGL says that they wish to settle the claim. They are about to launch a new product, Slimline Kettlebells, in their gyms and do not want to have to deal with any adverse publicity that a trial may bring.

Your supervising partner, Jack Tibbs, has assessed the claim and estimates that the court will likely award the sum of USD150,000 for damages. Costs incurred to date are estimated at USD40,000 and interest at USD15,000.

Mr. Tibbs has also reviewed the engineering report and is of the view that the claim should be discontinued against SEL.

In response to a request from Mr. Tibbs, you are required to prepare:

- (i) a draft offer to settle pursuant to Part 35 of the Civil Procedure Rules; and
- (ii) a draft letter for Mr. Tibbs' signature, and addressed to Helen Straker, BGL's CEO:
 - (a) advising that the claim be discontinued against SEL, of the effect of such a step and any costs consequences which may apply; and
 - (b) enclosing the draft offer to settle at (i) and explaining why the terms have been drafted as they are and advising on the effect of the offer if it is refused.

PART B

LAW OF ASSOCIATION

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

QUESTION 3

Mr. Albert J. Goodfellow is an entrepreneur who, last summer, won the largest jackpot in the history of the local lottery.

Mr. Goodfellow used his prize money to fund a garment factory to be operated by a new private limited liability company. This new company, "A. Jolly Goodfellow Company Limited" ("Jolly's"), was incorporated on September 21, 2024, with Mr. Goodfellow and his elderly mother, Rebecca, as its only shareholders. Mr. Goodfellow is the chairman and managing director. He tells you that he is contemplating having Jolly's enter the lucrative casino gaming industry, but he believes that the company would benefit from a change of its name to "A. Jolly Goodfellow Entertainment Limited".

Jolly's is late in making payments to a few of its creditors as the company prioritises the resources required to enter the casino gaming industry over existing contractual obligations. Although Mr. Goodfellow has asked the creditors for a six-month moratorium (grace period) on payments, the firm representing Robot Arms, a creditor of Jolly's is threatening to get a court order to wind up Jolly's to recover on the debt owed to its client.

Robot Arms is owed \$21,000,000 for robotic arms intended for a pilot project to introduce robots into the garment factory. This project was shelved and as the company's focus shifted to casino gaming the payments to Robot Arms stopped. No payment has been made since December 2024. When the loan was issued last year, Robot Arms secured a lien over \$5,000,000 in an account held by Jolly's at Holdings Bank Limited.

You and Mr. Goodfellow are scheduled to meet with the firm representing Robot Arms next week to discuss the matter.

In preparation for the meeting, draft a letter to Mr. Goodfellow advising on:

- (i) the procedure to be adopted to change the name of Jolly's; and
- (ii) the basis on which Robot Arms could obtain a court order to wind up Jolly's, and the procedure Robot Arms would be required to follow.

END OF PAPER