

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 2015

ETHICS, RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION

(AUGUST 12, 2015)

Instructions to Students

- (a) Time: 3 ½ hours
- (b) Answer **FIVE** questions.
- (c) 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.**
- (d) It is unnecessary to transcribe the questions you attempt.
- (e) Answers should be written in dark blue or black ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Jasmine represents Logan who is charged with larceny. The matter has attracted a significant amount of attention in the community. Jasmine's archrival, Lindsay, is the prosecutor in the case.

Three weeks before the trial commenced, Lindsay went to the court registrar to see whether the date that had been set for the trial could be changed. The registrar, in a dismissive way, denied Lindsay's request. Lindsay was totally dissatisfied with this response and, without a word, she threw her chair on the ground, knocked the registrar's papers off her desk and stormed out of the office. In an interview in the daily newspaper, Lindsay openly criticised the court administration and referred to all court administrators as "stupid and lazy."

At the commencement of the trial, Justice Gareth implored all parties to refrain from discussing the case in the public domain, in light of the sensitive nature of the trial. The prosecution team, led by Lindsay, presented a very strong case. Jasmine feared that she would have a mammoth task and, in her opening address, she described the police witnesses and the prosecutor as "corrupt liars ". That night, she posted the following on her Facebook page, "I had to listen to cheats and liars in court today".

When Jasmine and Lindsay appeared in court the following day, Justice Gareth said, "Jasmine, social media alone can't help you!" Jasmine was outraged and muttered, "you incompetent goat, you need to go and finish law school." At this point, the judge shouted, "What you said? Bailiff, lock her up for 3 days." Justice Gareth then turned to Lindsay and said, "As for you, you have no respect for this court, we all hear about what rudeness you do! If you have nothing to say for yourself, ask your junior to speak for you. I feel nothing but contempt for you. Bailiff, lock her up for a week."

Jasmine and Lindsay both seek your advice on appealing the orders of Justice Gareth.

Advise Jasmine and Lindsay.

QUESTION 2

Luke, a chef, was involved in an accident at the restaurant in which he worked, resulting in severe burns to his body. He was later dismissed by his employer, GoodEats, without any form of compensation.

Luke was distressed and consulted Tony, attorney-at-law, with a view to bringing a suit against GoodEats. After discussing the details of the accident and dismissal, Tony assured Luke that he had “a solid case”. Luke’s wife, Emily, who was present at the consultation, agreed to drop off certain documents requested by Tony.

The next day, Emily delivered to Tony a folder containing the requested documents along with other personal documents including a certificate of title for the couple’s home and their birth certificates. She explained that she did not have the time to sort out the documents and so she would return for the folder and personal documents at a later date.

Tony immediately commenced proceedings against GoodEats by filing a claim for wrongful dismissal, and submitted a bill to Luke for the work done up to that point. Luke was upset that he was being sent a bill for filing a suit against GoodEats for wrongful dismissal when he had planned to sue them for negligence in relation to his injuries.

Luke is also concerned since he discovered that Tony had previously represented GoodEats in another matter involving a former employee of the restaurant. Luke calls Tony, telling him in no uncertain terms that he refuses to pay any bill and accuses Tony of being a “two-faced lawyer”.

Luke is frustrated with Tony. He has come to you for assistance in pursuing his negligence claim against GoodEats. He is also keen to recover his documents and important personal papers which Tony refuses to deliver.

Advise Luke.

QUESTION 3

Mary Lamb, attorney-at-law, consults you with regard to the following:

- (i) Two months ago, she acted for Sophia in a copyright infringement matter. The fees for this case amounted to \$3 million. However, Sophia said that she did not have that amount of money in cash but that she owned land which was valued at exactly \$3 million. Sophia wishes to transfer her land to Mary as payment for the legal services provided.

- (ii) Mary has been instructed to draft a will for Jack, a long-time elderly client of the firm. Under the will, Jack wishes to devise his luxury condominium in Los Angeles to Mary. Also, as a token of appreciation for all the hard work she had done to date, Jack gave Mary an orchid plant and a bottle of champagne.

Advise Mary on the propriety of the above.

QUESTION 4

Over the last three months, Jill's client, Bob, made several payments amounting to \$5 million which were deposited into Jill's clients' account. On each occasion, Bob claimed that the amount represented the deposit for a proposed purchase of real property. However, shortly after making the deposit, Bob would advise her that he no longer wished to pursue the purchase and he would request a cheque from Jill's law firm for the amount deposited. Jill is concerned since rumours have been circulating that Bob has been involved in some shady business with members of the underworld.

In a matter involving another client, Beau, Jill has discovered that she had inadvertently included the instructions that she received from Beau, relating to his case against his ex-wife Belle, when she delivered some documents to opposing counsel. When Jill realised her error she immediately informed Beau about her error and he casually replied, "I don't care, that's your problem not mine!" However,

yesterday Beau expressed outrage at Jill for allowing Belle to learn all the secrets he had divulged when he consulted her for legal advice.

Advise Jill about what, if any, consequences may flow from the above and, further, on any possible steps she may take to avoid liability.

QUESTION 5

Jessy, an attorney-at-law, has been acting for Emma. In April, she wrote to the Sage Bank requesting them to release the title for the property of her client, Emma, for the purpose of having a second mortgage endorsed on it. She gave an undertaking to the Sage Bank to return the title as soon as she received it from the Titles Office/Land Registry.

Unfortunately, due to an earthquake in May, her office building was destroyed, along with all her files. Sage Bank has written to Jessy seeking the return of the title since Emma is in arrears with her mortgage payments. Jessy was hurt in the earthquake and is currently recuperating at home. She is also unable to produce the title since it was destroyed when the building collapsed.

Jessy has also been involved in a case involving the custody of children. She is acting for the husband, Ravi, who is seeking sole custody of the children of his marriage to Lindy. In the course of this litigation, Jessy gave an undertaking to Lindy's lawyers not to release the children's travel documents to Ravi, since there was a risk that he may abduct the children and leave the jurisdiction.

The travel documents were left with Jessy's accountant, Brooks, for safe-keeping since her office was being re-built. Ravi was required to meet Brooks to discuss some financial matters. Jessy did not send anyone to accompany Ravi during this consultation nor did she advise Lindy's attorneys of Ravi's proposed visit to Brooks. Ravi cunningly convinced Brooks to release the travel documents to him. He then took the children, without permission, and fled the jurisdiction with them. Lindy is distraught and has had to be hospitalized.

Jessy is concerned about any possible liability she may face and seeks your advice.

Advise Jessy.

QUESTION 6

Amy, attorney-at-law, recently attended a law conference in London where she presented a paper on damages in negligence matters. She took with her a stack of business cards and a number of her firm's newsletters, both of which she displayed on the registration table for the delegates to see and take.

After her session, Amy did a number of media interviews about negligence lawsuits, in which she expressly told the interviewer to introduce her as "the number one advocate" in her jurisdiction.

Amy is concerned that in light of the increased number of law graduates she might soon encounter unwanted competition, if she does not invoke some innovative tactics. As such, Amy has decided to drop a flyer in the mailbox of all residents in her community. The flyer is addressed to: "The Occupant" and states her name and qualifications. At the top of the flyer the following words are written in bold:

"WERE YOU HURT IN AN ACCIDENT?

HAVE NO FEAR

WE'LL GET YOU THE COMPENSATION YOU DESERVE

CALL 1-800-SURE-WIN"

Amy has just learned that her recent strategies may be in violation of the legal professional ethics in her jurisdiction and seeks your advice.

Advise Amy.

QUESTION 7

Delia is involved in an action concerning the division of matrimonial property, including a townhouse and a 2015 Audi Q5 motor vehicle. Delia had instructed Damien to represent her in the action. Damien drafted an affidavit in which Delia was to depose that she was the legal owner of the motor vehicle. As she was about to swear the affidavit, Delia tells Damien that she had forged the registration and other documents relating to the car and, further, that she had in fact never owned the vehicle which legally belongs to her employer.

Although Damien told Delia that these false statements in the affidavit should be deleted, Delia refused to do so and claimed that without the statements she would lose her car. Damien expressed concern at this approach but, nonetheless, he proceeded to file the affidavit. At the trial, Damien examined Delia on the basis that she was indeed the legal owner of the vehicle.

During the course of the trial, the judge requested that Delia produce further evidence of her ownership, including copies of the receipts for the purchase of the car. Damien gave an undertaking to the court that this documentation would be produced within 10 days and the matter was adjourned.

On the resumption of the trial, Damien produced the requested documents which Delia provided to him. However, Damien is concerned that if the court learns the truth about the ownership status of the vehicle and what he and Delia had done, he would face serious repercussions. He seeks your opinion on any liability he may incur.

Advise Damien.

QUESTION 8

Four months ago, Blakey retained Selena, a personal injury lawyer, to commence litigation as a result of a motor vehicle accident that left her with a deformed arm. Yesterday, when she visited Selena to find out the progress of her case, Selena flippantly responded that she did not think that the case was worth pursuing since any damages awarded would be “a waste of time”. When Blakey insisted that she commence the lawsuit, Selena was apologetic and admitted that the limitation period for the action had expired three weeks earlier. Blakey is furious and threatens to take action against Selena.

Selena is also a talented singer and, in order to supplement her income as an attorney, Selena has been performing at a popular upscale “Gentleman’s Club” every weekend. Selena is part of a routine involving a number of other performers including exotic dancers. Although Selena is a solo performer, her performance has attracted the attention of the chair of the disciplinary body.

Selena is concerned about any liability she may face and seeks your advice.

Advise Selena.

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