

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

**LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, MAY 2022**

ETHICS, RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION

TUESDAY, MAY 17, 2022

Instructions to Students

- (a) Duration: **24 hours**
- (b) Students shall enter their Examination ID Number **only**, not their names, on the cover page, the Academic Integrity Statement and on every separate page of the examination script.
- (c) The examination should be answered on letter-sized (8.5 x 11) paper only.
- (d) The examination should be submitted in Arial font 12 line spacing 1.5.
- (e) Students should clearly indicate the names of any cases with the citation and legislative provision/s (section number and Act) on which they rely to support their arguments. Consider using italics and/or bold text to make references prominent. (For example, *Rylands v Fletcher* [1868] UK HL1; **s.69 Real Property Act**). Sufficient detail is required to allow the examiners to understand the source of law that is being cited.
- (f) Footnotes, endnotes and a bibliography are not to be used.
- (g) Where word limits have been given, the actual word counts must be included at the end of your answer. Students who have exceeded the word limits will be penalised.

- (h) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (i) In answering any Part, 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.**
- (j) Each Student **must** ensure that their Anonymous ID in TWEN is changed to their four digit Examination ID Number, prior to submitting their examination script.
- (k) The examination script, with the cover page and Academic Integrity Statement saved in **ONE PDF DOCUMENT**, must be submitted in **ELECTRONIC** format via the **Year II MAY 2022 EXAMINATIONS, ETHICS RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION DROP BOX on TWEN** by **Wednesday, May 18, 2022 NOT LATER THAN** 1:00 p.m. (Jamaica), 12:00 p.m. (Belize) and 2:00 p.m. (Eastern Caribbean).
- (l) To upload the examination script which has been saved as one pdf document which includes the cover page and Academic Integrity Statement, you must follow these steps:
- Go to ***www.lawschool.westlaw.com***.
 - Log in using your username and password credentials and select the **TWEN** button.
 - Click on the link for **“Assignments and Quizzes”** located on the left-hand side of the navigation screen.
 - Select the relevant examination and the examination drop box as follows:
 - Year II students with Examination ID numbers between **2100 - 2181** must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year II – 2100 - 2181”**.

- Year II students with Examination ID numbers between **2182 - 2263** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box B Year II - 2182 - 2263**”.
- Year II students with Examination ID numbers between **2264 - 2345** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box C Year II - 2264 - 2345**”.

Lexxi Rayne, upon graduating from the law school, went to work with the prestigious law firm, Monet, Payne & Wright (MPW) where she worked in the firm’s litigation department, primarily handling personal injury litigation. After three years, she left the firm to set up her own practice. Due to her success in securing substantial settlements and judgments while at MPW, she was able to attract a large clientele and obtain referrals from friends and family.

You are required to write a letter to Lexxi who is seeking legal advice on (i) her handling of matters for Aston Rubio, Quick Loans R Us, Lourdes Perez and Salen DeCroix; and (ii) certain public and private statements made by her and her conduct in court before Justice Renphist.

Aston Rubio

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

Mr. Rubio was distressed and consulted Lexxi, with a view to suing GoodEats. After discussing the details of the accident and dismissal, Lexxi assured Mr. Rubio that he had “a *solid case*”. Mr. Rubio’s wife, Olivia, who was present at the consultation, agreed to drop off certain documents which Lexxi had requested.

The next day, Olivia delivered to Lexxi a folder containing the requested documents along with other personal documents, including a Duplicate Certificate of Title/Land Certificate

for the couple's home and their birth certificates. Olivia explained that she did not have the time to sort out the documents and so Lexxi should take what she needed and she (Olivia) would return for the folder and personal documents at a later date.

Lexxi immediately commenced proceedings against GoodEats by filing a claim for wrongful dismissal, and submitted a bill to Mr. Rubio for the work done up to that point. Mr. Rubio has called her, telling her in no uncertain terms that he refuses to pay any bill. Mr. Rubio further told her that he was upset at being sent a bill for filing a claim against GoodEats for wrongful dismissal when he had planned to sue them for negligence in relation to his injuries.

Mr. Rubio indicated that he will instruct new counsel to pursue his negligence claim against GoodEats. He has requested that Lexxi return his documents and important personal papers but she has refused to deliver them until her bill has been paid.

Lexxi wants you to identify and explain any ethical issues that arise between herself and Mr. Rubio.

Quick Loans R Us

Lexxi was retained by Quick Loans R Us to defend it in a claim for damages brought by Camaro Gold. Ms. Gold had instituted proceedings in respect of personal injuries she sustained arising from a fall, while doing business at the Quick Loans R Us branch located in Old MidTown.

During the process of disclosure, one of the documents in the list of documents seemed to suggest that an investigator's report on the fall was prepared for Quick Loans R Us by Verizon Adjustor's Limited, and that a legal opinion had been prepared by Lexxi for them. Ms. Gold has filed an application for specific disclosure of this report and the legal opinion but Lexxi has refused to disclose the documents on the ground that they are privileged.

Indicate to Lexxi whether her assertion of privilege is correct, giving reasons.

In another matter, Quick Loans R Us instructed Lexxi to bring a specified claim against Leyland Bruce for non-payment of a loan it granted to him. The claim was filed and served on Mr. Bruce. Sometime later, Lexxi received a call from Mr. Bruce accusing her of "*being*

a two-faced lawyer, turning on him by acting for those loan sharks". While at MPW, she had represented Mr. Bruce in a personal injury matter in which he had received a substantial settlement.

Lexxi wants you to identify and explain any issues that may arise in relation to the retainer with Quick Loans R Us in the claim against Mr. Bruce.

Mrs. Lourdes Perez

In 2019, Mr. Guillermo Perez, the husband of Mrs. Lourdes Perez, was tragically killed in a road accident involving another vehicle. Mrs. Perez instructed Lexxi to pursue a claim for damages on her (Mrs. Perez's) and their infant child's behalf against the driver and his insurer. Lexxi contacted the driver's insurer, Umbrella General Insurance Co Limited (the insurer). The insurer made an offer to settle of \$2,635,748 to her. In response, Lexxi wrote to the insurer stating that the offer was low and that it should be no less than \$6,635,400 based on her calculations. By a further letter to her, the insurer, wanting to get rid of the claim, increased its offer to \$7,000,000.

Lexxi told Mrs. Perez that the insurer had made a final offer of \$6,635,400 to settle and received her instructions to accept the offer. She even showed Mrs. Perez a letter purporting to be from the insurer as proof of the offer and subsequently accepted the actual offer of \$7,000,000 from the insurer.

Mrs. Perez had taken out a loan of \$1,000,000 with Torpedo Loans Limited. Mrs. Perez told Lexxi that since the insurer would shortly be transferring the proceeds of the settlement to her, Lexxi, she wanted her to write to Torpedo Loans Limited to say that the loan would be repaid from the settlement. Lexxi sent the following letter to the company:



Lexxi Rayne
Attorney-at-Law
10 Justice Court
Capital JURISDICTION

(000)123-4567

January 20, 2022

The Loans Manager
Torpedo Loans Limited
New Mid-Town
Jurisdiction

Dear Sirs,

I act for Mrs. Lourdes Perez with instructions to issue this letter to you. The Umbrella General Insurance Co Limited will shortly be transferring proceeds of a settlement to my client.

I shall pay to you the sum of One Million Dollars (\$1,000,000.00) and any additional interest that may be due, at the time for repayment, out of the proceeds of the settlement whenever the proceeds are received by me from Umbrella General Insurance Co Limited.

Yours sincerely,

Lexxi Rayne

Subsequent to that letter, the insurer wrote to Lexxi confirming settlement of the claim in the amount of \$7,000,000 and agreeing to a further amount of \$150,000 for her costs.

She received the total of \$7,150,000 by direct transfer to her personal current account at Carib Indies Bank, the details of which she had supplied to the insurer for that purpose. Shortly thereafter, she withdrew the money to pay the arrears on her car loan (as the bank was threatening to repossess her BMW), to settle a tax bill and to cover other office expenses.

Some weeks after, Lexxi replaced the money and deposited it in her personal interest-bearing account. Later, she received a call from the insurers conveying their shock that Mrs. Perez had not yet received the proceeds of the settlement. They relayed that Mrs. Perez had called them as she was of the impression that Lexxi had not yet received the settlement funds. They had informed Mrs. Perez that she should speak with her attorney-at-law, since the settlement had been honoured by the direct transfer of the \$7,000,000 to her attorney-at-law's bank account months ago. Upon hearing this, Lexxi transferred \$6,635,400 to her client's trust account. The next day, she informed Mrs. Perez that she had transferred \$5,635,400 to Mrs. Perez's personal bank account.

This did not appease Mrs. Perez who called her to express dismay at just receiving the funds and her concern that the numbers "*did not add up*" as the insurer had told her the amount of the settlement. She threatened to report her to the Fraud Squad/Police.

Lexxi subsequently received a letter from the disciplinary body in your jurisdiction informing her that the insurer had filed a complaint against her. She has also not returned any of the calls made to her by the loans officer from Torpedo Loans Limited in respect of her letter to them dated January 20, 2022.

Explain the propriety of Lexxi's actions in relation to Mrs. Perez's matters and what, if any liability she may incur in respect of her letter to Torpedo Loans Limited. Include in your response the possible consequences of the complaint filed by the insurer and any recourse that Mrs. Perez and Torpedo Loans Limited may have against her.

Salen DeCroix

Salen, one of Lexxi's friends, attended her offices one day and asked to retain her to

apply for a patent. The patent was for a herbal composition for the treatment of alopecia. Lexxi told Salen that she was reluctant to accept the retainer because she was swamped with work and also because she had no experience in intellectual property law.

Salen replied, *“I don’t really care and I have the utmost confidence that you can do a better job than any of the other lawyers I know.”* Salen went on to explain that the application for a patent would secure economic justice for her. She also told her that she needed to act quickly as she intended to monetise her patent by using it to attract investors, so she could pay off her student’s loan and several creditors who had been hounding her.

Lexxi took the documents Salen had with her and said, *“I got you! I will help you, I will file the patent.”*

Salen was both so relieved and delighted that, while thanking Lexxi profusely, confided in her that several of her creditors, whom she described as *“Shylocks of Back Street”*, were using intimidating tactics to collect on the outstanding loans and she was fearful that she would lose her fledgling business or face physical harm. Lexxi was sympathetic to Salen’s financial plight and offered to lend her \$1,500,000 to stave off the creditors. She told her not to worry as she can take her time to repay her but insisted that she give her *“something to hold on to”* in case she cannot repay the loan. Salen accepted the offer and agrees to issue to Lexxi shares in her company as security for the loan.

Lexxi was involved in a series of back-to-back trials and had not even looked at Salen’s papers. While reading the newspaper one day, she saw a patent application published in respect of the same herbal composition as Salen’s, thus rendering Salen’s composition no longer protectable. Salen is outraged when she learns this. She has lost her investors and is intending to take action against Lexxi for not making the application.

Lexxi is of the view that she is not liable in any way to Salen as she was just seeing if she could *“help her out”* as a friend, and demands that Salen immediately repay the loan with 20% interest or she can *“forget about those shares.”*

Lexxi wants you to explain the liability that may arise, if any, from her agreement to assist her friend, Salen.

In addition to her friend's unreasonable attitude Lexxi was frustrated by the slow pace of the delivery of judgments and the processing of court orders in the Supreme/High Court. Accordingly, she wrote a letter to the Chief Justice castigating the judges and the Registrar. She complained about difficulty in getting an order for seizure and sale processed. She had been waiting two years for an order for taxation of costs, and two years for judgment in a personal injury case.

She sent copies of the letter to the Minister of Justice/Legal Affairs and the Registrar. She also posted it on her website.

For International Women's Day she was invited by the host of a popular morning television programme to discuss her successful career as a female practitioner. During the interview, she was asked to comment on the state of the justice system and did so as follows:

"It is scandalous and disgraceful for me to be waiting so long for orders and judgments. The judges and registrars are too slothful in the discharge of their duties. Judges ought to be held personally accountable for the delays in the delivery of judgments. Their pay should be withheld. If not, the situation will never improve. I am due to appear soon before one such judge who is never timely with his judgments."

A few days later, she appeared for the claimant in a personal injury case before Justice Renphist in the Supreme/High Court. At the conclusion of the hearing, Justice Renphist reserved judgment in the matter. Lexxi was incensed by this and turned angrily to remonstrate with the judge:

Miss Rayne: *My Lord, I would be obliged if you would provide a timeline when you will deliver judgment.*

The Court: *Counsel, you know that I have a lot of cases on my list and that I am in court every day. I do not have any assistance as there is only one secretary working in the pool at this time. I have to use my vacation to write*

judgments, so I am declining to give you a deadline for when I will deliver the judgment. All I am prepared to say is that I will do so in due course.

Miss Rayne: *No! No, my Lord! That is not good enough! Are you not guided by the Judicial Code of Conduct, which stipulates that judges should endeavour to perform all judicial duties, including the delivery of reserved judgments, efficiently and with reasonable promptness? Are you not so guided...? My Lord? I am told that your lack of industry has not changed since your elevation to the Bench. Perhaps, if you spent less time at the 'bar' you would be able to write your judgments in a timely fashion!*

The Court: *That's it! Miss Rayne I have seen the letter you wrote to the Chief Justice. I have had enough of your behaviour. Please take your seat.*

Instead of taking her seat, Lexxi collected her files and exited the court room in a huff before the judge could adjourn the hearing. Later the same day, she was served with an order in the following terms:

- 1. Attorney for the claimant found in contempt of court and fined \$150,000 or imprisonment for 6 days.*
- 2. Registrar to file a complaint with the disciplinary body.*

Signed

Justice Renphist

Supreme/High Court

Explain to Lexxi, giving reasons, whether or not she can successfully appeal the order. She also wants to know the consequences she may face regarding the complaint to the disciplinary body by the Registrar.

Required:

Prepare your legal advice to Lexxi Raynne as requested. Your advice must not exceed **4500 words**.

END OF PAPER