

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR EXAMINATIONS, 2005

ETHICS, RIGHTS & OBLIGATIONS OF THE LEGAL PROFESSION

(FRIDAY, MAY 20, 2005)

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 ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

You have recently joined a law firm of which Ashton is the senior partner.

Ashton has represented Claire in civil proceedings that have lasted several months. The matter was particularly difficult as it was quite voluminous and the brief contained a hundred pages of exhibits. During the trial, Ashton was unable to handle any other matter.

Ashton has asked you to look at the file and advise him on the factors to be taken into account in preparing the bill of fees and to set out the requirements with respect to the submission of the bill to Claire in order to recover his fees.

Write a legal opinion for Ashton.

QUESTION 2

Peter Modeste visits you in your office and tells you that he was seriously injured in a motor vehicle accident, which, in his opinion, was caused by the reckless driving of Derrick Davies, the Chief Executive Officer of a major financial institution.

Modeste informs you that he is a pensioner of limited financial means, but he has heard that you are the top lawyer in personal injuries claims.

Modeste, who is anxious for you to represent him, says that in the event that he wins the case (of which he is sure), he is willing to pay you a percentage of any monetary award obtained in the matter.

What steps should you take for payment of your fees should you decide to represent Modeste?

QUESTION 3

At a trial for murder, Cedric was defence counsel. Throughout the trial, Cedric made insulting, improper and unfounded allegations against the prosecuting counsel. He did so openly and in front of the jury. Cedric ignored warnings given to him by the judge. At one point Cedric was heard to say that the accused was not guilty but the judge and the police had conspired with prosecuting counsel against the defence.

The accused was found guilty and while the judge was leaving the Court, Cedric stated loudly that the judge was "an ignoramus and nincompoop who should have been put out to pasture long time ago".

The judge immediately returned to the bench and cited Cedric for contempt of court. He then sentenced him to seven days imprisonment. He advised Cedric to use the time to reflect on his conduct.

Cedric, has retained you to appeal his conviction.

Advise Cedric.

QUESTION 4

On March 19, 2005, Vera Lange comes to your office and advises you that she had retained Alan Pompey to represent her in a motor vehicle accident in which she was severely injured. The matter was recently concluded. Judgment was entered against Lange and she was ordered to pay the costs in the matter. Lange complains bitterly to you that she was most dissatisfied with the manner in which Pompey conducted her case. Lange tells you that she believes that Pompey was negligent in presenting her case in court and wishes to bring proceedings against Pompey for her loss.

A perusal of the statements, pleadings/statements of case, notes of evidence and judgment leads you to conclude that:

- (i) the pleadings reveal evidence of negligence on the preparation of the matter on Pompey's part; and
- (ii) Pompey was negligent in the manner in which he conducted the case.

Write an opinion as to what proceedings, if any, may be brought against Pompey.

QUESTION 5

George Gates, an attorney-at-law, is retained by Paula Graham, who instructs him to institute proceedings against her former employer for wrongful dismissal and to assist her in some other legal difficulties.

Gates has completed some of the matters and has filed proceedings against the employer.

In spite of Gates' several written and verbal requests, Graham fails to make payments for the work completed.

On April 5, 2005, Drysdale and Drysdale, attorneys-at-law, write to Gates informing him that they have been retained by Graham to represent her in the proceedings being brought against her former ~~to~~ employer. They also request Gates to deliver to them all papers belonging to Graham, so that they can proceed with her matter.

Write an opinion on Gates' rights, if any, to retain in his possession the papers belonging to Graham.

QUESTION 6

On November 24, 2002, Alberta Craig, a spinster aged 80, agreed to sell her 50 acre cocoa estate to Jason Roget, for the sum of \$500,000.

Gregory Fawcett, an attorney-at-law, who has acted for Roget on several occasions in the past, agreed to act for Craig and Roget in the preparation and execution of the conveyance to Roget of the said cocoa estate.

Two months ago, Craig discovered that, at the date of sale, the cocoa estate was worth over \$1.5M. She feels most aggrieved and consults you.

Write a legal opinion as to –

- (i) the propriety of Fawcett acting both for the vendor and purchaser in the above conveyancing transaction; and
 - (ii) the factors that should have been taken into account by Fawcett in order for the transaction not to be challenged.
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QUESTION 7

On May 15, 2000, David Colby, a widower and father of two daughters, Anne and Mary, retained Christian Denis, an attorney-at-law, to prepare his Will. Colby instructed Denis that he wished to leave the bulk of his extensive property to the St. Jude's Home for Children. He further instructed Denis that his daughters, from whom he was estranged, were to be left an inheritance of \$15,000 each.

Denis prepared the Will in accordance with Colby's instructions. On May 28, 2002, the Will was duly executed.

On November 15, 2004, Colby, wrote to Denis informing him that he had reconciled with Anne and Mary, and instructed him to prepare a new Will, leaving his daughters the bulk of his estate, with a gift of \$15,000 to the St. Jude's Home for Children.

On April 4, 2005, Colby died and it is now discovered that Denis has failed to prepare the new Will. As a result, Mary and Anne are entitled only to \$15,000 each in accordance with the 2000 Will.

Mary and Anne consult you and wish to be advised as to the course(s) of action, if any, that they may take against Denis.

Advise Mary and Anne.

QUESTION 8

Margaret Alexander, an attorney-at-law, was engaged by Gareth Palmer in a conveyancing matter in which he, Gareth Palmer, was the purchaser.

To complete the transaction, Margaret forwarded the purchase money to Desmond Evans, the vendor's attorney-at-law, on the usual undertakings being given.

Desmond Evans has left the country taking the money with him. The vendor has refused to complete the sale and Gareth Palmer has consulted you as to what action he could take.

Advise Gareth Palmer.
