

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

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, AUGUST 2021

ETHICS, RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION

MONDAY, AUGUST 02, 2021

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 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 the 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.**
- (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 AUGUST 2021 EXAMINATIONS, ETHICS, RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION DROP BOX on TWEN** by **August 03, 2021 NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.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 2100-2177 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year II - 2100-2177”**.
 - Year II students with Examination ID numbers between 2179-2252 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box B Year II - 2179-2252”**.
 - Year II students with Examination ID numbers between 2253-2326 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box C Year II - 2253-2326”**.

Regional Chambers (“the Chambers”), located in your jurisdiction, refers to itself as a full suite law firm that offers a wide range of services to corporate and individual clients. The Chambers has a reputation for providing customised financial services to high net worth individuals and corporate clients. The head of the Chambers is Uriah Duke, Queen’s/Senior Counsel. The Chambers boasts a cutting edge information technology infrastructure and covers the persons it refers to as its “associates” under a professional indemnity insurance plan.

The business model of the Chambers provides the opportunity for attorneys-at-law to pool their resources to cover all overheads including rent, utilities, compensation for consultants, research facilities, administrative costs and bearer/courier services, while allowing each attorney-at-law the autonomy to practise as a sole practitioner. Each

attorney-at-law has to pay a percentage of any professional fees earned to the Chambers, as well as pay to Uriah a referral fee for any client Uriah refers to him/her.

The Chambers hired Naomi Bader, an experienced advocate, as a consultant. Christy Kendall, Roscoe Horne, Greg Dullbark and Ludlow Feliz are among the associates in the Chambers. Juda Limon, a former associate in the Chambers, was disbarred several months ago. He immediately stopped practising but was rehired by Uriah to provide paralegal services to the Chambers.

Associate: Christy Kendall

Bonnie consulted Christy on a family law matter. Bonnie is frustrated with her husband, Adam, and wishes to terminate her marriage. Whilst browsing on the internet, she used the search term “speedy divorce” and came across a website for the Chambers. She scrolled through the list of attorneys and selected Christy Kendall who was listed as specializing in divorces. There was a link on the home page with the words: “For divorce click here”. When Bonnie clicked on the link there was another link with the words: “Retain me”.

Bonnie clicked on the latter link and a form was generated requiring her to input her bio-data, personal contact information and details about her marriage. She completed the form and submitted it via the website. She was then directed to the *Terms and Conditions of Retainer* page on which she clicked, “I Agree”. A few moments later, she received an “Auto-reply” email from Christy. The email contained the following message:

“Thank you for your submission. We will review and revert to you within a reasonable time.”

However, Bonnie did not receive any further communication from Christy.

Three months after submitting the information, Bonnie fell madly in love with Trevor. She wished to get married to him on an upcoming Dreamy Cruise. Consequently, to ensure that everything was in train for the dissolution of her marriage to Adam, Bonnie called the Chambers’ office. However, she was unable to obtain any update having only been able to reach Christy’s voicemail. Christy’s recorded greeting simply requested the caller to leave a message after the tone, followed by an assurance that she would be in contact shortly.

After waiting two weeks without receiving a response, Bonnie called Christy’s office again. This time, Nora, the Chambers’ assistant assigned to Christy, advised her that Christy was out of the jurisdiction. In desperation, Bonnie went to the Supreme/High Court registry to check on her divorce file. She was shocked when she was told that no application for the dissolution of her marriage had been filed.

Bonnie was outraged, since plans for the cruise and the onboard wedding had been finalised. In fact, she had already incurred significant expenditure for the special occasion.

In exasperation, she posted a message on the Chambers' website threatening to take action against Christy for gross negligence.

Christy is concerned about this post. She has told Uriah that although she had seen the form that Bonnie had submitted, she did not think that she was obligated to handle the matter.

In another matter, Christy is representing Karen, whom Uriah has referred to her, in a hostile divorce and division of matrimonial property case. In the course of this litigation, she gave an undertaking to Mark, the attorney-at-law representing Karen's husband, Ken, not to release Karen's share and bond certificates to her, since there was a risk that she would sell the shares and bonds and leave the jurisdiction with the proceeds of the sale.

The certificates were left with Christy's accountant, Anderson, for safekeeping. Karen was required to meet Anderson to discuss some financial matters. Christy did not send anyone to accompany Karen during this consultation nor did she advise Mark of Karen's need to meet with Anderson. While Anderson was outside of the room attending to an urgent call, Karen retrieved the share and bond certificates from amongst the documents on Anderson's desk and placed them in her handbag before Anderson returned to the room. She subsequently sold the shares and bonds and left the jurisdiction with all the proceeds of sale.

Mark is threatening to take action against Christy and the Chambers.

Associate: Roscoe Horne

On the morning of June 12, 2017, Conchita Aazon came to see Roscoe at the Chambers but he was not in office. In his absence, Conchita gave a statement to Juda Limon. She complained that she had been told by her employer, BIGG Sales Ltd., that if she took a course in the operation of Microsoft Teams, she would be promoted to Manager of the western office. She paid money and took time off to take the course, and was fired shortly thereafter. She wanted to sue for damages for wrongful dismissal and she wanted her job back.

Juda prepared a letter of engagement, which he signed on behalf of Horne, and had Conchita sign it. Juda also prepared a Claim Form and Particulars/Statement of Claim for damages and an order that Conchita be reinstated.

When Juda told Horne what he had done, Horne was very pleased and told him to proceed to file and serve the papers. He was involved in a criminal trial in the Parish/Magistrate's Court which was taking up all of his time and did not have time to even review the documents prepared by Juda.

Juda filed the Claim Form and Particulars/Statement of Claim and served them on BIGG Sales Ltd. BIGG Sales Ltd. filed a defence, alleging that Conchita was fired because she had breached a non-disclosure agreement. The defence also stated that the Court had

no jurisdiction to order her reinstatement, and that reinstatement could only be ordered by the Industrial Disputes Tribunal/Labour Department/Labour Complaints Tribunal. Juda did not tell Horne about the defence as he (Horne) was still busy with the criminal case. Unsure what to do next, Juda began working on another case.

In September 2019, the attorney-at-law for BIGG Sales Ltd., served Horne with a Notice of Application/Application to dismiss the claim which was set for hearing on December 13, 2019. Again, Horne was busy with another criminal case in the Circuit/High Court, and Juda did not tell him about the hearing. On December 13, Juda went to the judge's chambers and asked another attorney-at-law waiting to go in, to adjourn the case, because Horne was not available. The judge refused the application for an adjournment and dismissed the Claim.

Prior to this, Conchita had been pleased with the filing of the Claim and, on receipt of an invoice, in August 2017, from Horne for work done to date, she paid the sum due and made an extra payment, in advance, on account of further fees. Horne had established two bank accounts - a clients' trust account and an office account. He put the advance payment in the clients' trust account.

Sometime in 2018, Conchita had come to Horne's office with a friend, Jessus James. Mr. James stated that he had saved a great deal of money and wanted to buy a property. He wanted to place the money with Horne for deposit into Horne's clients' trust account until he found a suitable property. Horne agreed, and placed US\$1,000,000 from Mr. James in his clients' trust account.

In January 2019, Mr. James sent written instructions to Horne to pay US\$100,000 to Mrs. Whistledon in Santa Marta, US\$300,000 to Conchita and to put US\$400,000 in a chequing account in his name. Horne did as instructed. Horne sent Mr. James an invoice setting out his fees in the sum of US\$2,000 and withdrew this sum from the clients' trust account.

Two months later, Horne had the opportunity to purchase a townhouse for US\$450,000 but had to do it quickly. Horne, therefore, took the US\$450,000 from his clients' trust account, confident that he could pay back the money over time.

In January 2020, Conchita, having discovered the fate of her matter, filed a complaint against Horne with the disciplinary body in your jurisdiction. Horne informed Uriah of the complaint and gave him a brief history of the engagement with Conchita and Mr. James.

Associate: Greg Dullbark

Greg Dullbark is a flamboyant character who relishes every opportunity to publicise his cases and loves the media attention generated from him discussing his latest case. He is always giving interviews, is intoxicated with the use of all social media platforms and frequently blogs about his latest cases.

Dullbark is representing one Paulo Cortez, otherwise known as “Lyrical Caballero”, who has been convicted of murder and is appealing his conviction and sentence to the final appellate court of the jurisdiction. In preparation for the appeal, Dullbark posted several articles on his LinkedIn page and blogged about the case and aspects of the appeal. He appeared in a virtual pre-trial hearing via the videoconferencing platform, Zoom. During the hearing, Dullbark’s phone rang incessantly, interrupting the proceedings. Prosecuting counsel remarked “My friend, has an insatiable appetite for attention; his media friends are trying to contact him for his next appearance...”. After this comment, there ensued a heated exchange between prosecuting counsel and Dullbark, each trying to outdo the other, both in the volume of their speech as well as the acidity of their insults. During the exchange, Dullbark accused prosecuting counsel of withholding evidence in the case.

Dullbark made an audio recording of the hearing, intending to use it for transcription purposes, and took a screenshot of the Zoom screen of the court hearing. He gave his secretary, Penny, the audio recording of the hearing to transcribe. She, being so excited that the case involved her favourite artiste, “Lyrical Caballero”, uploaded the audio recording to her Instagram page. Dullbark posted the screenshot in a blog on his LinkedIn and Instagram pages.

After the hearing, Dullbark gave a radio interview in which he accused the Office of Director of Public Prosecutions/Attorney General’s Chambers of violating his client’s constitutional rights by withholding evidence in its refusal to release an exhibit for examination by the defence team, employing delaying tactics and abusing its office. He further accused the prosecuting counsel in the case of being dodgy, shady and deliberate in his actions by tampering with evidence.

The Director of Public Prosecutions/Attorney General, who is a friend of Uriah, has complained to him about Dullbark’s conduct.

Rufio Epton was before the court on a charge of carnal abuse, to which he pleaded not guilty. Counsel on record was Dullbark, the matter having been assigned to him as a legal aid case. When the trial was set to commence, Dullbark had asked another associate of the Chambers to hold for him because he had two matters before the Supreme/High Court. The associate informed the court that he was not prepared to proceed in the trial as he had not been briefed by Dullbark. However, the judge decided to proceed with the matter, pointing out that the complainant lived overseas, that the jury pool was limited and that the case was set for trial as a priority matter. The associate participated in the jury selection and also took notes of the complainant’s examination-in-chief, in Dullbark’s absence. At the end of the examination-in-chief, the matter was adjourned.

On the day the trial resumed, Dullbark was present but told the court that he could not properly defend the accused. He felt that when the trial began in his absence, the accused was denied the benefit of his advice, and he (Dullbark) was denied the opportunity to examine the composure of the complainant, and to object to jurors and to certain aspects

of the evidence. He denied sending the associate to hold on his behalf and said that he had previously agreed to an adjournment of the hearing with prosecuting counsel and was therefore surprised that the matter had started in his absence.

The trial judge was annoyed by Dullbark's attitude and remarked "I have a problem with attorneys who undertake legal aid assignments and then fail to attend court. Attorneys-at-law must give the same attention to matters in which they have been retained pursuant to the legal aid regime as those in which they have been privately retained." Dullbark enquired of the judge whether that comment was directed at him. He told the judge that he took umbrage at the comment, that he would no longer take part in the proceedings and would excuse himself from the representation. The judge stated that she would not be releasing him from the representation and tried to persuade him to remain in the matter.

Despite the judge's refusal to release Dullbark from the matter, he nonetheless excused himself, walked out of the courtroom in the presence of the jury and took no further part in the trial. The judge decided to continue the trial because a jury was already empaneled and the complainant was now living overseas. The accused, Rufio, a simpleton who was illiterate, was forced to represent himself, with such assistance from the judge, as she was allowed to give. The jury returned verdicts of not guilty on count one and two and guilty on count three. He was sentenced to four years' imprisonment at hard labour on count three.

Rufio has stated that he will be challenging his conviction and sentence.

Associate: Ludlow Feliz

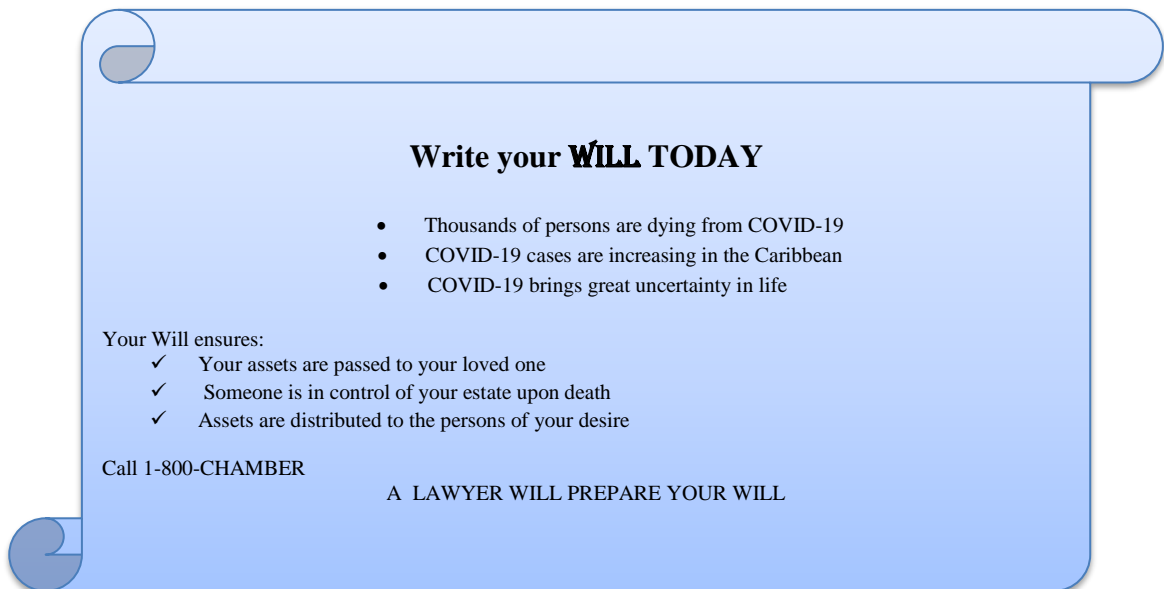
Angela and Doris, who had been friends for a long time, were charged with armed robbery, allegedly committed in a shop. They decided to retain Angela's uncle, Ludlow, as their lawyer. Ludlow is the estate planning attorney-at-law in the Chambers and has never represented defendants in criminal cases.

Angela and Doris met with Ludlow together. In the meeting, both of them emphatically denied that they robbed anyone. Ludlow agreed to represent them in their criminal cases and gave them a retainer agreement which they each signed.

Weeks later, at their first appearance in court Ludlow represented both accused. He angered the judge because of his unfamiliarity with criminal procedure. When he returned to the Chambers, he instructed Naomi Bader, the Chambers' Consultant to represent Angela and Doris. He did not tell Angela and Doris about this arrangement.

Naomi Bader, in her weekly meeting with Uriah, told him about the matter.

One Mr. Grange saw the notice below, which ran during the commercial breaks at the nightly press conference held by the Minister of Health on the COVID-19 pandemic. The notice was also accessible on the Chambers' website:



Write your **WILL TODAY**

- Thousands of persons are dying from COVID-19
- COVID-19 cases are increasing in the Caribbean
- COVID-19 brings great uncertainty in life

Your Will ensures:

- ✓ Your assets are passed to your loved one
- ✓ Someone is in control of your estate upon death
- ✓ Assets are distributed to the persons of your desire

Call 1-800-CHAMBER

A LAWYER WILL PREPARE YOUR WILL

Mr. Grange called the number and was connected to Ludlow's office. He instructed Ludlow to prepare a Will leaving the majority of his estate to be shared among his girlfriend, Spice, and their twin children, Cayenne and Basil. He also wished to leave for Ginger, Spice's daughter from a previous relationship, an amount to fund her education. He did not want his estranged wife, Peppa, whom he had not seen for several years, to get 'a cent of his money'.

Shortly after Ludlow was retained by Mr. Grange, the Prime Minister announced a national lockdown. Ludlow, who would continue to work on his files from home during the lockdown, asked his administrative assistant to put all his active files in his briefcase so he could work on them. Through an oversight, Mr. Grange's file was not among the files placed in Ludlow's briefcase.

It has been eight months since the re-opening of the jurisdiction, however, Ludlow has not prepared the Will in accordance with Mr. Grange's instructions. Mr. Grange died in a motor vehicle accident, ten months after the re-opening of the jurisdiction. Peppa and the children inherited his estate under the rules of intestacy.

Spice is threatening to sue Ludlow and the Chambers.

Uriah

The IT infrastructure at the Chambers was recently hacked and 1.1 terabytes of data consisting of 9,500,000 documents including correspondence and financial records belonging to the clients were leaked and sold by the hackers to various news outlets around the world. The news outlets published stories on the assets of the high net worth clients. Uriah caused an investigation to be undertaken into the source of the hack, and the IT technician reported that the system was penetrated through the email server, infiltrating the system with malware that, over time, weakened the security features. This caused various vulnerabilities in the infrastructure, allowing the hackers to haul epic amounts of data comprising clients' identity information, loan documents, financial

statements and emails from the servers. This leak provoked hundreds of investigations worldwide.

Lessi, a UK national and sports icon, has been a client of Uriah's for a number of years. In the late afternoon of April 21, 2021, five members of the Serious Crime Unit of the police force arrived at the Chambers and presented a search order to Yung, who is a junior associate in the Chambers. This order was issued by a local judge, pursuant to the mutual assistance legislation in the jurisdiction.

At the time of the arrival of the police, Yung was the only attorney-at-law in the office. She was told by the officer that they were investigating all aspects of Lessi's business activities, pursuant to a request from the UK government. The police in the UK were planning to prosecute Lessi for money laundering.

The officers demanded access to all of the files in the Chambers and other documents bearing Lessi's name. In particular, they asked to see the instructions from Lessi, all contracts between Lessi and third parties, as well as the receipts for all monetary transactions conducted by him.

Yung handed over the receipts but refused to deliver up the other documents. Nonetheless, and in spite of Yung's protests about the manner in which the officers were conducting the search, they forcibly removed all documents bearing Lessi's name.

Lessi is outraged and has threatened to take action against Uriah for "betraying his confidence".

Uriah is concerned about the several issues that have arisen in respect of the practices of Christy, Roscoe, Greg, and Ludlow and seeks your advice on them. He further seeks your advice on the handling by Yung of the search and on the structure and operations of the Chambers.

Required:

Prepare an opinion for Uriah.

Note:

Your answer should not exceed **4,500 Words**.

END OF PAPER