

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 2024

ETHICS, RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION

(FRIDAY, AUGUST 2, 2024)

Instructions to Students

- (a) Time: **3½ hours**
- (b) Answer **ALL** questions.
- (c) In answering any question, a candidate may reply by reference to the law of any Commonwealth Caribbean territory zoned for this school, **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 black or dark blue ink. Erasable pens are not allowed.

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**PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.**

## QUESTION 1

Mabelle Marple, attorney-at-law, had been doing legal work for Tevio Telli, a wealthy businessman, since she graduated from law school five years ago. Tevio retained Mabelle for three different matters namely to:

- (i) prepare a codicil to Tevio's Will. Tevio wanted to leave a substantial gift of US\$250,000 to his niece, Baily, whom he had raised and educated, and to change the residual legatee from his former wife to his eldest son, Egbert, who was also appointed Executor, under his Will;
- (ii) initiate a personal injury claim against Byft, a taxi-cab service. Tevio had been hit by a car that was being driven by an employee of Byft, and suffered severe injuries which exacerbated his existing heart condition; and
- (iii) restructure two of Tevio's companies to facilitate the transfer of Tevio's shares in the companies to Baily.

Mabelle and Tevio agreed on a fee arrangement, where she would bill on a time-spent basis at an hourly rate of US\$500.

Tevio, accompanied by Baily, attended Mabelle's office to discuss the changes to the Will and to execute documents concerning the restructuring of the companies, including the request for the transfer of shares to Baily. Mabelle told Tevio that she had been very busy with other clients' matters, but assured Tevio that she would prepare the documents as soon as possible.

Mabelle initiated the claim in the personal injury matter and pursued it through to trial.

Four months after the visit, Tevio died from a massive heart attack. Coincidentally, the judgment in the personal injury matter was delivered on the same day he died. The court awarded Tevio US\$180,000. Mabelle was only able to secure such a large award because of the efforts and the assistance she received from King's/Senior Counsel. The award has not yet been paid.

Egbert informed Mabelle of Tevio's death and asked her to provide a copy of the codicil, and an update on the work for which she had been retained. Mabelle told Egbert about the recent judgment but admitted that she had started drafting the codicil but had not yet completed it. Mabelle emailed Egbert a bill for the work she had done on Tevio's matters. The bill included *inter alia* the following items:

<i>Initial consultation and taking instructions (\$500 * 1 hr)</i>	\$ 500
<i>Preparation of Draft Codicil (\$500 * 2 hrs)</i>	\$ 1,000
<i>Personal Injury matter (\$500*50 hours)</i>	\$ 25,000
<i>King's/Senior Counsel's fee</i>	\$ 6,000
<i>Meeting with Client (\$500*2hrs)</i>	\$ 1,000
<i>Preparation of Agreements for the share transfer (\$500 * 5 hrs)</i>	<u>\$ 2,500</u>
	<u><b>\$ 36,000</b></u>

Egbert was incensed with all that had happened and told Mabelle that he was not paying the bill. He asked Mabelle to return his father's documents, including the Will, the share certificates and agreements for the share transfer but Mabelle refused to do so.

Egbert and Baily have now retained Sally Shephard, attorney-at-law, for her advice on all that occurred. Egbert also told Sally that he wanted her to finalise the company restructuring matter.

You are an associate in Sally's firm. Sally has asked you to provide an opinion on the issues that arise.

Provide the opinion.

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## **QUESTION 2**

Wallys Warfeld, a criminal defence attorney-at-law, represented Cade Caiso, a professional cricketer, under the terms of a written retainer.

Wallys, a sports enthusiast and cricket fanatic, was able to attract this high-profile client as she 'rubbed shoulders' with the 'who's who' of the sports world. She attended, when her schedule allowed, many sporting events and was always an invitee to the annual Regional Sports Foundation awards banquet.

At these events, she would routinely hand out business cards to sportsmen, officials, other invitees, and corporate spectators. She was also very friendly with sports agents and coaches of elite athletes. Having gained a reputation of being 'a fixer' for sportsmen and sportswomen who got into a 'spot of bother' she was revered as the 'go-to' attorney-at-law. These agents and coaches would insist that any elite athlete who ran afoul of the law should contact Wallys. They would offer them her business cards.

Cade was charged with assaulting his girlfriend, Robyn, at the LeBlanc restaurant (the Restaurant). Robyn made a report to the police. Dane Dell, a waiter at the Restaurant, gave a statement to the police, that while waiting tables at the Restaurant he saw Cade assault Robyn.

In addition to her fees, Wallys told Cade to provide her with two sets of season tickets to the Caribbean Premier League and front-row seat tickets and all access passes at the T20 World Cup matches, if she prevailed in the criminal case.

In preparing for trial, Wallys met with and urged Dane to amend his statement to say that while waiting tables at the Restaurant, he saw a little "lover's tiff" between Cade and Robyn, but did not see an assault and that they appeared to have "kissed and made up".

For this change in his witness statement, Wallys agreed to pay Dane an hourly fee, roughly equal to his hourly wages and tips at the Restaurant, for his time in testifying and for an entire day of preparation. Wallys also agreed to give Dane one set of the season tickets to the T20 cricket matches.

Cade, after discussion with Wallys, arranged for Robyn and her friends to spend the day at a spa, on the day set for trial. Robyn accepted the offer, knowing fully well that this would undermine

the trial. Thereafter, the matter came up for trial on several occasions and was eventually dismissed for want of prosecution, because Robyn made herself unavailable on each occasion.

It also came to light that the prosecution did not proceed with Dane, the second witness, because he submitted a subsequent statement. Dane had changed his initial statement to assert that it was a lie that he had seen an assault in the first place.

Cade was elated and relieved about the outcome and sent the season tickets with a bottle of wine and a 24-karat diamond bracelet to Wallys. A week later, Cade and Wallys were having dinner at the Restaurant and invited Dane to pose for a photograph with them. Wallys, when tipping Dane, handed him the season ticket.

Provide an opinion identifying the legal issues that arise from Wallys' conduct of her practice, evidenced by the foregoing, stating any liability that she may face.

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### **QUESTION 3**

Royce Maybach & Lamb (RML), Attorneys-at-Law, is a boutique law firm that offers legal services in employment, corporate and commercial law, with expertise in complex mergers and acquisitions. You are a partner in the firm and the managing partner, Lamb, has asked for your opinion on the three matters set out below.

(i) **Country Wide Insurance Company Acquisition**

A year ago, RML was retained by Country Wide Insurance Company (CWIC) in respect of an acquisition of a smaller insurance company. Anglin, a junior partner, had carriage of the transaction. Mercado, an actuary employed at CWIC, gave actuarial advice on the acquisition. The managing director of CWIC, did not have any confidence in the accuracy of Mercado's analysis and subsequently terminated Mercado's employment.

The acquisition has since been completed.

Zane, Mercardo's uncle, was recently hired as an associate attorney-at-law at RML. Mercardo retained RML to institute a claim against CWIC for wrongful dismissal. Zane has conduct of the matter.

CWIC retained another attorney-at-law, Ludlum, to defend the claim. Ludlum has now written to Zane to state that CWIC intends to object to the firm's representation of Mercardo.

(ii) Get-the-Green Company Limited

RML handles all of the legal matters for Get-the-Green Company Limited (Get-the-Green), a lawn care company. Helo, the managing director of Get-the-Green, without reference to its board of directors, instructed RML to commence legal action in the name of the company, to recover a debt owed to it.

One week after the senior partner, Royce, instituted the claim, he received a call from the chairman of Get-the-Green's board saying that the board was surprised to learn of the commencement of litigation.

(iii) Corozal Bank

RML is acting for Corozal Bank (Corozal) which is merging with Palmetto Regional Bank (Palmetto). Anglin had carriage of the transaction. The proposed merger was subject to the approval of the shareholders of the respective banks. Anglin committed to hold in escrow all title documents in Corozal's mortgage portfolio pending the conclusion of the merger.

Anglin wrote to Shortz, the attorney-at-law acting for Palmetto, stating that RML:

*... will hold and not part or deal with the title documents in any way prejudicial to your interest. We further commit to releasing all title documents when the new entity is formed.*

Due to an administrative oversight, ten title documents were mistakenly handed over to the respective mortgagors. Some of those mortgagors have left the jurisdiction and others cannot be found. Anglin resigned from RML before the close of the transaction.

When the new entity was formed, Shortz wrote to RML requesting that they release all the title documents to them in keeping with their commitment. RML released the remaining title documents in Corozal's mortgage portfolio.

Provide the opinion on RML's exposure based on the issues that arise.

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**END OF PAPER**