

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR SUPPLEMENTARY EXAMINATIONS 2023

ETHICS, RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION

(THURSDAY, AUGUST 10, 2023)

Instructions to Students

- (a) Time: **3½ hours**
- (b) Answer **ALL** questions.
- (c) In answering any 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.**
- (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.

---

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

## **QUESTION 1**

Linus Leggo is a building contractor. Over the last 15 years, Linus built several small strata/condominium complexes in the jurisdiction. A few years ago, Linus conceptualised what he described as his “dream scheme”, being the development of a strata/condominium complex in Hillsbrooke Estates. Each strata/condominium unit will have luxurious amenities including a home theatre, wine bar and hot tub. The complex will also have squash and tennis courts, an outdoor entertainment area and a rooftop infinity pool for the general use of residents.

Sonita Sabal was Linus’s long-time attorney-at-law and friend. She had acted for him on all of his previous construction projects. At his request, she gave him an estimate of her projected fees, in connection with the new scheme, to obtain titles, prepare agreements for sale, have carriage of sale of all the strata/condominium units and to advise, generally, on any legal matter that might arise during construction and the transfer of ownership of the units. Her estimate came to just about 12% of the estimated cost of construction of the multimillion-dollar project. Although Linus found that the estimate was high, he agreed to let Sonita do the legal work.

Sonita suggested an alternative: in lieu of a fee, she would accept two furnished units (of her choice) on completion of the project (subject to Linus putting her in funds to meet official government duties and taxes and all other usual disbursements). Although he had never seen anything like this done before, Linus readily agreed in writing to this proposal and the project proceeded on this basis, with Sonita acting as usual, as his super-efficient legal adviser and business confidante.

Construction was completed in record time and the demand for the finished strata/condominium units far exceeded even Linus’s most optimistic expectations. He is now in the process of giving possession to purchasers and met with his accountant to review and finalise the project accounts. The accountant pointed out to him that the value of the two strata/condominium units chosen by Sonita (one, a penthouse facing south with a view of the sea and the other, a corner unit on the northeastern side of the building with a mountain view) would be 2 ½ times the original fee estimate (or 30% of the total project cost, which had escalated considerably).

The accountant showed Linus statements of accounts which revealed that the deposits collected from purchasers had amassed some US\$8,000 in interest, as a result of being placed on Sonita's interest-bearing business account. While Sonita accounted for the deposits paid by various purchasers in the statement of accounts, she did not pay over the interest accrued on the deposits to Linus.

She is also insisting that Linus is obligated to transfer the units to her as agreed and expects him to do so as soon as possible.

Startled by the outcome of what he now considers to be a very bad deal, Linus attends your chambers to seek your advice on the various issues that have arisen with Sonita.

Advise Linus.

---

## **QUESTION 2**

Hilda Hale is the managing partner of Hale & Co., Attorneys-at-Law, which has two offices (Eastern and Western Office) in your jurisdiction. In May 2023, Franz Forde retained Hilda in relation to the purchase of property located at Fontabelle, in your jurisdiction, from Vincenzo Vardan, a citizen of Portland, Oregon, USA. Franz and Vincenzo knew each other, as from time to time, Vincenzo rented accommodation from Franz when visiting your jurisdiction.

Franz had become aware of Hale & Co., because of Hilda's high social media presence. Hilda conducts weekly podcasts on her show "Speak Law – Rights of the Everyday Citizen". In addition, Hilda creates "Day in the Life" videos which often show clips of her meeting with clients, walking to court and conducting research in the library in her chambers. Hilda ensures that these videos are posted on all social media sites. In her latest TikTok video, Hilda comments on the volume of work that she has, and introduces her new associate attorney-at-law, Zane, whom she describes as a "rising star", he having recently been featured in a "Professionals on the Move" issue of a

local magazine. At the end of the video, Hilda, who works from the Western Office, specifically invites viewers to her Eastern Office to consult with Zane for all their legal needs.

Franz travels a lot on business. He and Hilda mainly communicate by electronic mail via their respective email accounts, namely, Hildalegal@hotmail.com and Franz\_forde@hotmail.com. By email, Hilda advised Franz that US\$30,000 deposit was due to be paid on the Fontabelle property, in two days, in keeping with the terms of the agreement for sale.

As Franz was en route to Sydney, Australia, he asked Hilda to advance the deposit amount on his behalf and said that he would reimburse her as soon as he landed in Sydney. Franz provided Hilda with his bank account information from which the funds would be sent, and Hilda gave Franz her bank account information. Hilda also obtained the bank account information for Vincenzo's attorney-at-law.

Hilda had received another email purportedly from Vincenzo's attorney-at-law for the deposit to be sent by wire to Umpqua Bank located in Portland, Oregon, USA, so she sent the deposit to that bank. Franz also sent the US\$30,000 deposit to Hilda, as he had promised.

A week later, Vincenzo's attorney-at-law, who had not received the deposit, contacted Hilda to follow up. Hilda told him that she had sent it to the Umpqua Bank as requested. Subsequently, it was then discovered that a fraud had been perpetrated to the detriment of all of the parties, and the money diverted to the fraudster's account. Unbeknownst to Franz and Hilda, their email accounts, and the email account of Vincenzo's attorney-at-law, had been intercepted by fraudsters. It was later revealed that Hilda had experienced a serious cyberattack. Her Hildalegal@hotmail.com account had been phished, and was thus compromised.

Two months later, Hilda tried without success, to reverse the transfer sent to the fraudulent bank account. She filed a police report with the Cybercrime Unit of the Police. Hilda hired a cybersecurity expert to conduct an audit of her computer system. The cybersecurity expert discovered that the hackers were able to access Hilda's email because Hilda did not have any cybersecurity software installed on her equipment, and she was using an internet-based email

account on a public domain with no security features, save for a password (12345) to log onto her computer.

Vincenzo's attorney-at-law is requesting specific performance of the purchase of Fontabelle, and Franz is demanding that Hilda replace the monies that he had sent to her. Hilda is of the view that she had discharged her obligations and is not obliged to repay Franz, as she herself had been a victim of the fraud. Franz terminated Hilda's retainer and engaged a new counsel.

Subsequently, Franz became even more upset when he found out that Hale & Co. is acting for Vincenzo, who is now also suing him for wrongfully withholding a security deposit. Vincenzo had seen the TikTok video which featured Zane and retained Zane to institute the claim against Franz.

Franz's new attorney-at-law sent a letter to Hilda telling her that he will take steps to ensure that Hale & Co. does not continue to act for Vincenzo. In the letter, the new attorney-at-law also threatens to take other steps against Hilda for what he describes as "a myriad of missteps".

Hilda has sought your advice on the issues that arise and any liability she may face in relation thereto.

Provide your opinion.

---

### **QUESTION 3**

(a) Milo

Milo is a prosecutor in the office of the Director of Public Prosecutions (DPP) /Attorney General (AG). Milo is prosecuting a fraud case involving an employee of a bank. The case was a well-known one and captured the attention of the news media.

Milo loved the attention. He took every opportunity to provide the media with updates on the case. In one such update, Milo said to the journalists, *"This is a slam-dunk case for me. A sure win. I can do this with my eyes closed. In any case the attorney for the defence is young,*

*inexperienced and knows nothing. I can run circles around my “learned” (here Milo demonstrated with air quotes) friend.”* Everything that Milo said was reported in the newspaper.

At the trial, Milo sought to refresh Ayo’s memory from a copy statement. Ayo, a bank employee, was the prosecution’s main witness. However, during the examination-in-chief of Ayo, Vonn, the defence counsel, objected to the use of the statement, on the ground that it was materially different from the original statement that was disclosed to him. He had compared the copy to the original statement.

When asked by Justice Jafar if the document was a true copy of the original statement that Milo had previously served on the defence, Milo replied, *“Yes, it is a true copy of the original”*.

An adjournment was granted for the comparison of the documents and on resumption of the trial, Vonn pointed out that there were 11 differences between the documents, but Milo maintained that the copy and the original had the same content.

The following day, under cross-examination by Vonn, Ayo admitted that he was asked by the head of the bank’s internal investigation unit to sign a new statement, which he did, and gave it to Milo. On the day following this disclosure, the DPP/AG attended court and announced that the prosecution was offering no further evidence.

Milo eventually admitted that the original statement could not be found and therefore had to be reconstructed, but maintained that there was no new material in the reconstructed statement that could have resulted in an injustice to the accused. He explained that the copy statement was a “second original” which he expected to be a replica of the earlier statement.

Justice Jafar told the accused that he was free to go.

You are counsel in the office of the DPP/AG. The DPP/AG is concerned about what transpired during the trial, and has asked you to provide an opinion on the implications of Milo’s conduct, and what proceedings, if any, can be brought against Milo.

Provide your opinion.

(b) Vonn

Mona Silas was a member of the jury in the fraud case at (a) above. Mona was impressed by the manner in which Vonn conducted the cross-examination in that case. She telephoned Vonn and asked him if he could represent her son, Dude, who was defending a murder charge. Dude is accused of killing his neighbour, Precious, chopping her body and disposing of her body parts by burying them in a cement wall.

Vonn told Mona that he had a full caseload and was overwhelmed with court fixtures, but that he would see what he could do. Vonn met Dude for the first time two weeks before the trial commenced and took instructions. Dude told Vonn that he was not in the area during the time when the act was alleged to have occurred.

Vonn discovered that the only substantial evidence that the prosecution has is a statement, made by Dude to his friend, Turo, who is “known to the police”, that the deceased was a “bad girl and was looking to get what she got for being hot.”

Before Vonn attended the first day of the hearing, Dude directed his mother to a box that he had in his bedroom at home and asked her to deliver it to Vonn. Upon receiving the box and examining its contents, Vonn finds a diary. The diary contains Dude’s recount of how he raped and murdered Precious.

Vonn is unsure of how he should proceed, and he has asked you to prepare a memorandum of opinion advising him of the steps he should take.

Prepare the opinion.

(c) Fox

Fox was admitted to practise as a solicitor in the United Kingdom on January 16, 2003. On December 11, 2015, he was admitted to practise as an attorney-at-law in your jurisdiction. Since his admission in your jurisdiction, he obtained practising certificates for each year including 2023.

Fox had been struck from the Roll of Solicitors in the UK consequent upon his being convicted on April 25, 2018 at the Central Criminal Crown Court, London, of the offence of possessing criminal

property contrary to s329 (1)(A) of the Proceeds of Crime Act 2002(UK). On June 22, 2018, he was sentenced to a term of three years' imprisonment, and disqualified for seven years from acting as a director of any company under section 2 of the Company Disqualification Act 1986(UK).

After serving his sentence, Fox returned to your jurisdiction and continued to practise there. In November 2022, the Chairman of the disciplinary body in your jurisdiction was presented with a copy of Fox's conviction. He seeks your advice on whether disciplinary proceedings can be instituted against Fox.

Prepare your advice to the Chairman.

---

**END OF PAPER**