

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR SUPPLEMENTARY EXAMINATIONS, 2004

ETHICS, RIGHTS & OBLIGATIONS OF THE LEGAL PROFESSION

(WEDNESDAY, AUGUST 4, 2004)

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

AB instructed Brandon & Associates, a firm of attorneys-at-law, to prepare his Will in which his wife was to be his sole beneficiary. He instructed James, an associate attorney-at-law of the firm, to send the Will to his home for execution. James did not warn him that his wife should not attest the Will as a witness, for if she did so the gift to her would fail. The Will was attested by his wife and returned to the firm for safe keeping.

AB died and the gift to his wife failed.

Advise the wife who would like to take proceedings against Brandon & Associates.

QUESTION 2

Albert is a young attorney-at-law, who has recently been admitted to practise. He is appearing before the High/Supreme Court for the first time and is representing John Jones on a charge of unlawful wounding and rape.

In cross-examination of the main witness for the prosecution, Albert started to ask certain questions of her when he was stopped by the judge who openly accused Albert of attempting to mislead the Court by the line of questions being asked. He said that Albert could not have received such instructions from his client and demanded to see the client's instructions. Out of deference to the judge, Albert handed the judge the written statement of his client which was in his

file. The judge read the statement and then handed it to counsel for the prosecution who read it and then handed it back to Albert.

At the end of the trial John Jones was found guilty and sentenced to five years imprisonment.

Albert seeks your opinion on whether he should have refused to give the written statement of his client to the judge.

QUESTION 3

James is charged with murder and you have been retained to represent him.

He informs you that he did commit the crime but does not wish to plead guilty.

What are the restrictions, if any, on your conduct of James' defence?

QUESTION 4

John, an attorney-at-law, has been instructed by Tom, a long-standing client, to prepare his Will.

Tom wishes to make a gift of a substantial amount to John as a token of his regard and appreciation for his past services.

Advise John on the steps he should take to avoid any challenge to the gift.

QUESTION 5

Charles, an attorney-at-law, was convicted for fraudulent conversion of property belonging to a client of his and sentenced to two years imprisonment.

He appealed his conviction and his conviction was quashed on a technicality.

A member of the Bar would like disciplinary proceedings to be taken against Charles.

Write an opinion as to how this could be done stating at the same time the possible orders that can be made against Charles.

QUESTION 6

Helen, an attorney-at-law, was appearing in the High/Supreme Court before Mr. Justice Grudge. During the course of the trial, she requested that the judge disqualify himself from any further hearing of the matter as she was convinced that, based on his rulings on a number of submissions made by her, he was not only wholly ignorant of that area of the law but was certainly biased in favour of the other party. She told him that he was incompetent and a disgrace to the judiciary.

The judge immediately adjourned the proceedings and called you to his chambers. He says that he is determined to take strong action against Helen for her conduct and intemperate language.

Advise Mr. Justice Grudge as to the likely courses he could take.

QUESTION 7

Hardup has a case for damages following injuries received in a road traffic accident.

Hardup persuades John, an attorney-at-law, to take the case on the oral understanding that he would pay John 30% of the damages recovered. On this basis, John consents to act for him.

John is successful in obtaining a substantial award of damages, and also his taxed costs from the defendant, but Hardup now objects to any deduction from the award of damages, saying that John is limited to the recovery of the costs only.

Hardup sues John to recover the 30% of the damages which John has retained.

John seeks your opinion. Advise John.

QUESTION 8

Gillian retained the services of James, an attorney-at-law, so as to get possession of land on which there were a number of squatters.

James assured her that taking proceedings would be "a piece of cake", and he went about his instructions in a rather carefree manner.

When the matter came up for trial, however, he was met with the defence by the squatters that Gillian's action was statute barred, and as a consequence, judgment was awarded against her with costs.

Is there any recourse, which Gillian may have against James?
