

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

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS 2014**

EVIDENCE AND FORENSIC MEDICINE

(AUGUST 12, 2014)

Instructions to Students

- (a) Time: **3½ hours**
 - (b) Answer **QUESTION ONE** and **FOUR** others.
 - (c) **Answer Question 1 on a separate answer booklet provided.**
 - (d) 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.**
 - (e) It is unnecessary to transcribe the questions you attempt.
 - (f) Answers should be written in black or dark blue ink.
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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

PART A

FORENSIC MEDICINE

COMPULSORY

QUESTION 1

Answer both (a) and (b)

- (a) Write **short notes** on the following:
- (i) Defence wounds
 - (ii) Cadaveric spasm
 - (iii) Sexual asphyxia
 - (iv) Running amok
- (b) Briefly **differentiate** between:
- (i) Ligature mark in Hanging and Ligature Strangulation
 - (ii) Post-mortem stains and Bruises
 - (iii) Ante-mortem and post mortem wounds
 - (iv) Illusion and Hallucination.
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PART B

LAW OF EVIDENCE

QUESTION 2

Frank and James are prosecution witnesses in a murder trial against Leslie. The allegations are that Leslie shot and killed the deceased on the street in broad daylight.

Both Frank and James gave statements to the police to the effect that they recognised Leslie, a resident of their gang-ridden community, as the perpetrator. They had seen him several times before.

No identification parade was held because Leslie's photograph was published in the newspaper as a suspect and the police considered that this would invalidate a parade.

At the trial before a jury, Frank's statement was admitted into evidence by virtue of a statute allowing this if a witness cannot be found. James gave evidence and, despite objection, identified Leslie by way of dock identification.

Leslie gave evidence in support of his defence of alibi. The judge gave no special directions. Leslie was convicted and appealed.

On appeal the following issues arise:

- (i) Was the dock identification admissible?

- (ii) Were any special directions required in relation to identification?
- (iii) Were any special directions required in relation to Frank's statement?

Advise on these issues.

QUESTION 3

Dale is charged with the robbery of a bank. The prosecution proposes to rely on a witness, John, who saw Dale commit the offence. John allegedly transported Dale to the bank but is giving evidence for the prosecution although he was initially charged. No evidence was offered against him by the prosecution for this purpose. The prosecution also intends to rely on an alleged confession by Dale, which Dale contends was obtained from him in oppressive circumstances.

When the matter comes up for trial John is called by the prosecution but initially contends that he did not see who committed the offence. The prosecution applies to treat John as hostile. That application is granted. The prosecution proves John's previous inconsistent statement to the effect that Dale committed the offence. John then admits that the statement was true and explains his initial position on the basis that he was afraid.

In respect of Dale's alleged confession, the trial judge holds a *voir dire* in the absence of Dale and rules it admissible. Prior to summing up, the trial judge invites submissions from the attorneys-at-law for the prosecution and defence on whether any special directions should be given.

Dale's attorney-at-law submits that the jury should be asked to disregard John's evidence, he having been cross-examined by the prosecution as a hostile witness. The defence attorney-at-

law requests a Musthaq direction. The prosecuting attorney-at-law opposes this on the basis that that direction applies in England and not your jurisdiction.

In your position as a judicial clerk to the trial judge, advise him in respect of both submissions and whether any additional special direction is required other than those referred to by the attorneys-at-law.

QUESTION 4

- (a) Jane is injured at the Neverland Amusement Park, and files civil proceedings against the park's owners, Neverland Co. Ltd. She was injured on the roller coaster ride. Neverland Co. Ltd. files a defence alleging *volenti non fit injuria*.

What burden, if any, does Neverland Co. Ltd. have in relation to its defence?

- (b) Joe purchased a used car from Crissers Car Sales Ltd., a used car dealership. Joe purchased the car after Slick, the Managing Director of Crissers Car Sales Ltd., represented to him that it was a 2003 Lexus. However, Joe subsequently discovered that it was a 2000 Lexus.

Joe now files civil proceedings against Crissers Car Sales Ltd., and Slick for breach of contract and he alleges fraudulent misrepresentation.

Advise on the standard of proof.

QUESTION 5

Roy and Tom are charged with possession of cocaine.

The prosecution's principal witness is Inspector Baddams who testifies that he stopped the vehicle in which both were travelling and found the cocaine in the trunk.

Roy's attorney-at-law cross-examines Inspector Baddams to establish that in a previous case, investigated by Inspector Baddams, he admitted at that trial to tampering with evidence. Inspector Baddams denies this.

Roy's attorney-at-law seeks to call the magistrate who presided at the previous trial to prove the alleged admission. He contends that the evidence is admissible to show a tendency by Inspector Baddams to go to improper lengths to secure a conviction. The judge rules against calling the magistrate on the basis that this is a collateral issue and Inspector Baddams' denial should be treated as final.

Tom gives evidence in his defence and blames Roy for the cocaine find. Tom has two previous convictions for drug-related offences.

- (i) Advise on the correctness of the judge's ruling as to calling the magistrate to give evidence concerning the previous trial.

- (ii) What course of action, if any, is open to the prosecution and Roy's attorney-at-law in view of Tom's evidence against Roy?

QUESTION 6

Petrona is involved in a motor vehicle collision between her car and another car which speeds from the scene.

Petrona notes the licence number of the vehicle and dictates it to the investigating policeman who arrives on the scene. On the basis of this information the policeman arrests and charges George for dangerous driving.

At trial, Petrona, while giving evidence, is unable to recall the licence number of the car and the prosecutor seeks to have the investigating policeman testify to this from his note.

- (i) Is the investigating policeman's evidence as to the licence number of the vehicle admissible?
- (ii) On the facts mentioned above could Petrona refresh her memory from the policeman's note and if so, in what circumstances?

Give reasons for your answers.

QUESTION 7

- (a) George is charged with the murder of his wife.

When concerned co-workers noticed her missing for several days, they called the police. When questioned by the police, George told them that his wife had become frustrated with the marriage and had migrated. A few days later his wife's body is discovered. George then told the police he killed her in self-defence but had not said so previously because he thought no one would believe him.

At the trial the prosecution adduces evidence of the lie, although there is other evidence against George.

Should the trial judge give any directions in relation to George's lie? Discuss.

- (b) Assume that George has no previous convictions and at the trial he adduces evidence of this.

Should the trial judge give any directions in relation to this? Give reasons.

QUESTION 8

- (a) While Tom and Peter, both licensed firearm holders, are practising at the local shooting range, Tom is injured by a bullet from Peter's gun.

Peter is charged for wounding and his defence is accident. The judge in summing up to the jury states –

“Members of the jury, the accused has raised the defence of accident and as such he must satisfy you that this is how the complainant was injured. Only then can you acquit.”

Advise on the correctness of this direction.

- (b) Distinguish between the admissibility and weight of evidence.

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