

COUNCIL OF LEGAL EDUCATION NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE FIRST YEAR EXAMINATIONS, MAY 2021

LAW OF REMEDIES

THURSDAY, MAY 13, 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 any Part, 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 I MAY 2021 EXAMINATIONS, LAW OF**

REMEDIES DROP BOX on TWEN by Friday, May 14, 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 I students with Examination ID numbers between 1100 -1192 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box A Year I - 1100-1192***”.
 - Year I students with Examination ID numbers between 1193 -1283 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box B Year I - 1193-1283***”.
 - Year I students with Examination ID numbers between 1284 -1376 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box C Year I - 1284-1376***”.

Landie Salt, your long-time client, is a 40-year-old software engineer. He informs you that he has been having a myriad of legal problems and needs your help to resolve them.

Landie instructs you that he lives in an unfinished three-storey house located at Temple Hill in the jurisdiction. He hired MIX UP Construction Company Limited (“Mix Up Construction”) on December 8, 2018 to complete the house. Mix Up Construction agreed to complete the house and ensure that all upgrading to the existing structure was done. The agreed contract price was \$700,000, which Landie had paid in full. The house was set to be completed on March 13, 2019, and the contract provided that in the event of non-completion by the agreed date, the payment of liquidated damages of \$45,000 per week would be applied. The house was eventually completed two years later on March 30, 2021, when Mix Up Construction indicated, by email, that all works were completed.

During the construction, Landie had to seek alternative accommodation as he was unable to tolerate the dust and debris associated with the construction. He rented a house for

\$6,000 per month. Landie incurred moving costs of \$1,000 to relocate himself and his family.

Landie revealed that he had entered into an agreement, in writing, dated July 1, 2017, to purchase the land at Temple Hill on which the house was built, but the purchase of the land is still to be completed. Under the terms of the agreement, Landie had agreed to purchase the land for \$10,000, and had made a down payment of \$3,000 to Mr. Bobby Kai, the vendor, with the understanding that he would take possession and commence construction. Mr. Kai had agreed to take all required steps to clear the title of all encumbrances, including discharging all mortgage/charge and liens on the property, as a condition of completion of the sale. Landie tells you that, to date, a mortgage/charge of \$4,000 in favour of Money Building Society remains on title, and a caution/caveat has since been lodged by Mr. Kai's estranged wife. Four years later, and after many requests for the necessary steps to be taken by Mr. Kai to complete the sale, he is now saying there is no contract of sale.

Landie also tells you that he works for Everybody Bank, a financial institution, as a software engineer with the responsibility for developing payroll software. He had a three-year contract and began his employment with them on January 1, 2019. On January 1, 2021, he was dismissed from his job. At the time of his dismissal, he was the head of his department and making a salary of \$5,000 per month. He also received the following benefits:

- a vehicle and driver to chauffeur him wherever he needed to go;
- an entertainment budget of \$200 per month;
- airfare and accommodation to conferences and meetings;
- a 60 inch flat screen television with cable services in his office;
- an iPhone 12 Pro Max mobile phone with unlimited data and calls as part of the bank's closed user group plan;
- a 16 inch Mac Book Pro Laptop ;
- coffee and tea provided at work; and
- a housing allowance of \$300 per month.

The terms of his employment were embodied in the contract which provided that it was terminable by three months notice by either party.

Prior to his dismissal, there had been a data breach of the system which, on investigation, revealed that the administrator's access to the system had not been encrypted or closed. This allowed for the system to be easily hacked. Landie was asked to attend a meeting at 9:30 am with his supervisor. In the meeting he was told that his performance was below the required standard and his services were no longer needed. He was then told to leave the building immediately and was escorted from the property by security guards.

Landie is devastated and could not get out of bed for three months. He instructs you that he is unable to find another job in his field, due to the stigma attached to his dismissal.

He tells you that he wants his former employers punished. He believes that they should suffer as he has.

Landie owns a 1964 Aston Martin DB5. It is a classic car that he refers to as his 'baby'. He spends time washing this car daily and has spent a considerable amount of money to repair the engine and maintain the body of the car. He further tells you that he feels like 007 when he drives it. The car has also won several prizes in classic car shows and is rented by various artistes for video shoots at a rate of \$400 per hour.

While driving along the main road in his Aston Martin on April 15, 2021, Landie was hit by a truck, driven by Trucky Sam. Landie tells you that at the time of the accident he remembers seeing the truck in his rearview mirror. He was overtaking a car and shortly thereafter, he heard the squealing of brakes just before feeling an impact to the rear of his car. Landie admits that at the time of the incident he was not wearing his seatbelt, since he was only going for a short drive.

As a result of this collision, there was extensive damage to the rear of the vehicle. Landie also suffered physical injuries as a result of the accident. His injuries included cuts from glass fragments to his face, a broken arm, injuries to his spine and a punctured cornea. At the hospital X-rays were done. Landie paid \$6,000 for a medical report which revealed that he had a spinal cord injury secondary to a fractured vertebrae. The injuries caused reduced motion in his neck and in his ability to move as fast as he once did. Instead of moving freely, every physical movement had to be calculated. The report indicated that Landie had great difficulty going up and down stairs, and getting up from a sitting position. Landie was required to wear a neck brace and could not turn his neck to look to either side. He still wears the brace and he also now has blurred vision when he uses the computer for a couple of hours.

Landie has four children with Shana, his ex-wife. Mandy, aged seven, is a primary school student, Tandy and Tommy aged 14 and 17 respectively are both in high school and Wendy, aged 22, is a university student. Landie is responsible for all school fees and pays monthly maintenance to Shana.

Since the accident, he has experienced periods of depression and has visited a psychiatrist, Dr. Andrea FieldGoode. The doctor's report revealed that he was frequently tearful, often had flashbacks of the accident, nightmares and anxiety, resulting in the inability to maintain extended conversations.

Landie also indicates that before the accident he was a 'big chef', who enjoyed cooking and exploring the outdoors. Now, he is unable to hold a knife properly, to peel an orange and does not go out except when it is absolutely necessary.

He also indicated that he had to pay a wrecker \$7,500 to transport the car to his garage

and was charged by the assessor \$20,000 to prepare a report of the damage to the vehicle. The pre-accident value of the car was \$450,000 and the cost of repairs is \$600,000.

Landie tells you that his car was his sole means of transportation and as a result of the accident he has had to ask his girlfriend to carry him around or has had to use taxi services when she is unavailable. Trucky Sam has refused to fix the vehicle.

Sometime after the accident, Landie was travelling in a friend's vehicle when the car was stopped by members of the police force. He asked the officer the reason why the vehicle was stopped, to which the officer responded saying "Aye bwoy yuh damn bright and feisty. Shut up! You are being arrested". He was then escorted into the back of the police truck in front of a large crowd of persons. He says that he felt such embarrassment that he wanted to "crawl into a hole and die". Following this, he was taken to the Hell's Bay Police Station, where he was placed in a cell with 12 detainees next to the bathroom for three hours. The cell was small, filthy, and stank. He was later transported to the Horror Street lockup.

Landie further states, that while at Horror Street lockup, he shared a cell with four other detainees who were on murder charges. He said that he was so afraid for his life that he did not eat for two days. On the third day, he was released with no explanation for his arrest.

Required :

With reference to authorities, advise Landie on the causes of action, remedies available and the bases on which any monetary award may be calculated to resolve the issues on which he has instructed you.

Note:

Your answer should not exceed **4,000 WORDS**.

END OF PAPER