

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

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS 2024**

LAW OF REMEDIES

(FRIDAY, AUGUST 9, 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.
- (f) Calculators may be used and are provided.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

You are a junior attorney-at-law employed by Legal Solutions in your jurisdiction. Jeremy consults you concerning an incident involving his neighbour, Mishka.

Jeremy gives you the following instructions:

- (1) On May 2, 2024, Mishka's gardener, Ivan, was burning garbage and shrubs along the wall separating Mishka's property from Jeremy's, when fire embers escaped onto Jeremy's property. As a result, a fire started which destroyed Jeremy's shed and his prize-winning rose garden; the roof of his house also suffered significant damage.
- (2) The shed was fully stocked with gardening tools and fertilizer.
- (3) He was planning to subdivide his property into two parcels, by separating the house from the garden and shed. He wants to sell the house as a separate parcel of land, and retain the garden and shed.
- (4) He is extremely upset because his roses have consistently won first prize at the prestigious King Garden show for the past five years, generating an annual income of approximately US\$25,000 from the sale of rose cuttings. He had approximately three acres of land under rose cultivation and had contracted to sell 20 bags of rose petals to K Hotels for US\$150 per bag. He was unable to fulfil his contractual obligations because of the fire.
- (5) He has enough rose seedlings in a storage area in his house to reestablish his garden. However, it will take two years before the garden resumes profitability and will require considerable work and expense to do so.
- (6) He engaged the services of Berries Construction Company Limited (Berries) to provide an estimate of the costs of rebuilding the shed and repairing the roof. Berries submitted an estimate dated May 15, 2024, for US\$8,500 to rebuild the shed and US\$16,750 to repair the roof.

- (7) He estimates that the gardening tools and fertilizer in the shed are valued at US\$3,500.
- (8) He cannot afford to repair the roof or rebuild the shed.
- (9) Prior to the fire, he had obtained a valuation report from commissioned valuers, Kurtis & Young, dated December 1, 2023, which stated the market value of the property as US\$330,000. Following the fire, Kurtis & Young conducted another valuation and determined the market value to be US\$260,000.

Write an opinion to your senior partner setting out the legal issues that arise, the available remedies, the measure of damages and the approach likely to be employed in the computation of any award by the court.

QUESTION 2

You are a junior attorney-at-law at a firm in your jurisdiction. Daisey Green consults you concerning an incident involving her employer.

Daisey Green (the Employee) has been employed as a secretary to Prestige Insurance Company Limited (the Employer). The terms of her contract includes the following:

TERMS OF ENGAGEMENT

1. The Employee shall be engaged for five years, commencing on June 2, 2022, (period of engagement) with a monthly salary of US \$3,200.

...

DETERMINATION OF ENGAGEMENT

4. During the first three months of the period of engagement the

Employer may terminate the services of the Employee without assigning any reason, by giving one month's notice in writing or paying one month's salary in lieu of notice.

...

8. (a) After the expiration of three months, the Employee may at any time terminate the engagement by giving the Employer three months' notice in writing.

(b) If the Employer terminates the employment of the Employee before the expiration of this agreement otherwise than in accordance with this section, the Employer shall be liable to pay the Employee, as liquidated damages, the following:

- (i) one month's salary for every year of service from the time of employment;*
- (ii) after a minimum period of six months of employment, full pay for vacation leave at the rate of 21 working days, or part thereof, per annum; and*
- (iii) after termination of the agreement, a gratuity equivalent to 10% of the total salary as stated under the agreement.*

On June 3, 2024, the Employer wrote to Daisey informing her that her contract of employment was terminated immediately without giving any reason.

Write an opinion to your managing partner setting out the legal issues that arise, the available remedies, the measure of damages and the approach likely to be employed in the computation of any award by the court.

QUESTION 3

You are a junior attorney-at-law at the legal aid centre in your jurisdiction. Your senior provides you with the brief below:

On July 10, 2024, two police officers, later identified as Officer Dockery and Officer Barber, encountered an unkempt and poorly dressed man on the street. The man was observed walking away from a jewellery store shortly after it had been robbed. Despite his protests of innocence and explanation that he was a construction worker returning from work, the officers accused him of involvement in the robbery.

The officers proceeded to physically assault him, shouting abusive language at him in the presence of pedestrians who were passing by. After enduring an hour of being beaten, the man, who identified himself as Quentin Grant, was marched through the streets in handcuffs, his clothing torn and bloody, to the Haddock Police Station.

At the Haddock Police Station, he was placed in a 10' x 5' cell which had no light, he had to sleep on a concrete bed with no sheet or pillow. The bathroom was filthy and he had to use a stick to open it. He was detained in police custody for 72 hours with no access to outside communication and no charges being laid. On July 13, 2024, he was informed by Officer Dockery that he was released from custody, as the jewellery store's surveillance footage exonerated him.

On July 14, 2024, Quentin sought medical attention for his injuries. He was diagnosed as having suffered broken bones and tissue damage and incurred US\$11,000 in medical expenses. Quentin remained in the hospital for five days and suffered a loss of US\$5,000 in earnings for the days he was in detention and hospital.

Quentin was traumatized by his detention and displayed signs of diminished self-esteem and severe reduction in his ability to face public

gatherings and events. On July 20, 2024, he went to Dr Feel Good for a psychiatric evaluation. He was diagnosed with severe post-traumatic stress disorder which was directly attributable to his detention in July 2024.

You are required to prepare a memorandum to your senior outlining the legal issues that arise, the available remedies, the measure of damages and the approach likely to be employed in the computation of any award by the court.

END OF PAPER