

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

FIRST YEAR EXAMINATIONS, AUGUST 2022

LAW OF REMEDIES

MONDAY, AUGUST 22, 2022

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 a 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 AUGUST 2022 EXAMINATIONS, LAW OF REMEDIES DROP BOX** on TWEN by **TUESDAY, AUGUST 23, 2022 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 - 1185** must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year I – 1100 - 1185”**.

- Year I students with Examination ID numbers between **1186 - 1271** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box B Year I - 1186 - 1271**”.
- Year I students with Examination ID numbers between **1272 - 1357** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box C Year I - 1272 - 1357**”.

Instructions:

All figures are stated in United States Currency.

You must update each given figure to an equivalent sum in the currency of your jurisdiction, using the following exchange rates:

- Belize: BZD\$2.00 - US\$1.00
- Jamaica: J\$155.00 - US\$1.00
- OECS: XCD\$2.70 - US\$1.00

You have been retained by Mr. Big Bob who has given you the following instructions:

MR. MIKE SMITH

Mr. Mike Smith was employed on an indefinite-term contract as a chemist at Mr. Big Bob’s chemicals factory (the factory). He had an unblemished record for 20 years until his dismissal on May 13, 2021. He earned a yearly salary of \$125,000.

On April 12, 2021, Mr. Smith was invited to an interview by a local reporter on the TV station in your jurisdiction. At this interview, he was asked to comment on the working environment of his workplace. His response to the reporter was as follows:

"Management is a farce. There are people in my department who have no qualifications to make the decisions they are making. I feel like the

managers do not take the health and safety of the workers seriously and remain caught up with internal politics."

On May 13, 2021, Mr. Smith was summoned to a meeting by Mr. Big Bob who handed him a letter which stated the following:

"On the evening of April 12, 2021, you appeared on the local TV station and you were highly critical of the management. Your statements about management have undermined our authority and cast a bad light on the factory in the eyes of the public. Your employment is terminated with immediate effect. This dismissal is on the grounds of misconduct. You have behaved in a manner which clearly demonstrates that our current employment relationship cannot be expected to continue."

Mr. Smith read the letter and told Mr. Big Bob in the meeting that there was a factual basis for his statement as he himself had experienced the poor management style of the factory. He also told Mr. Big Bob that he was just trying to look out for the health and safety of his co-workers. These comments were dismissed by Mr. Big Bob who asked that he leave the factory with his belongings immediately.

After his dismissal, Mr. Smith wrote to Mr. Big Bob and offered to clarify his comments, withdraw them and/or apologize. Mr. Big Bob did not respond to this letter and Mr. Smith sent another letter threatening legal action.

Mr. Smith did not seek employment for four months following his dismissal, as he was upset about it. He has recently been offered a job as a handyman but has refused to accept it as it is not in his area of specialization.

MRS. JACKIE SUE

Mrs. Jackie Sue is now 22 years old. She was employed as an assistant process operator at Mr. Big Bob's factory where she earned \$500 a month. On November 12, 2020, she was injured at work when her right foot went into an uncovered drain two and a half feet

deep. The drain contained hot chemical substances. She was taken to the hospital, where she received daily dressing, physiotherapy and analgesia to facilitate partial surgery of the wound around the ankle. She remained in hospital for two and a half weeks, and settled her hospital bill of \$1,600 before being discharged.

Her medical report indicated that she sustained the following injuries:

1. Chemical burns to right ankle
2. Partial thickness burns to right lower limb calf down to the toes
3. Circumferential burns at right ankle
4. Area of right ankle extremely sensitive to touch
5. Hypertrophic scars secondary to chemical burn on the right ankle
6. Puritis of right ankle
7. 6% of total body surface burns

Dissatisfied with the speed with which her wound was healing, Mrs. Sue decided to have a surgical excision and skin grafts performed on December 9, 2020, at a cost of \$3,000. On February 9, 2021, she developed wound breakout in the previously grafted area. As a result, she was hospitalized, in May and July, 2021, totalling approximately three weeks, for intensive wound care.

Since the accident, Mrs. Sue has been having flashbacks of the incident and has developed a psychiatric illness from the trauma and scars she endured. She has been too nervous and afraid to return to the factory floor to work and has been placed in a secretarial post at the factory since November 2021, where she earns \$300 a month.

MS. ROSE DALLFLOWER

Ms. Rose Dallflower is the owner of a stately home, a property she acquired in 1989, some ten years before Mr. Big Bob constructed his factory next door. Ms. Dallflower is a retiree who frequently lets her house and grounds from which she earns substantial income. She has written a letter to Mr. Big Bob complaining about the noise and noxious fumes that have been coming from the factory over the last six months and threatening

to sue. She has also indicated that she has seen a sharp decline in bookings, as guests no longer want to rent her property because of the noise and fumes coming from the factory.

THE FIRE

On September 2, 2021, Mr. Big Bob bought process heaters from Cogworths, retailers of process heaters. On December 8, 2021, explosions were heard in the factory and fire was seen coming from the process heaters. The fire alarms went off and all employees were safely evacuated.

The fire department was called, but by the time they arrived, the factory was completely destroyed.

The results of an investigation into the cause of the fire revealed that it was started by one of the faulty process heaters supplied by Cogworths.

Mr. Big Bob rebuilt the factory, modernizing the design of the building and upgrading the equipment at a total cost of \$200,000. He rented a commercial space for \$1,000 a month for one year after the accident, to facilitate the rebuilding process.

Mr. Big Bob also purchased and installed replacement heaters from Hot Pots that had a lifespan that far exceeded its nearest competitors by ten years.

The evaluator's assessment of the replacement value of the factory was \$100,000.

Mr. Big Bob's 2022 Mercedes Benz motorcar was also extensively damaged in the fire. The damage was assessed by a licensed mechanic who found the car to be 80% damaged by the fire.

Prior to the accident, the vehicle was in pristine condition and was serviced and maintained by the local dealer. Mr. Big Bob had spent \$10,000 on a custom package for the vehicle to include an upgraded sound system, 22" rims and an AI system that was personalized to his commands. The vehicle was the 'apple of his eye' and the envy of all

his friends. He is devastated by the damage caused to his vehicle and feels like he has lost a family member.

The replacement cost for the vehicle is \$50,000. Mr. Big Bob indicates that he cannot get the customizations of his vehicle done locally and wishes to have it restored and repaired. He obtained a repair estimate from an overseas dealer for \$70,000. The cost for the estimate was \$300.

Mr. Big Bob is now without any means of transportation and has to take a taxi to and from work. He has indicated that his spending in this area is currently at \$4,000.

Required:

Advise Mr. Big Bob on the various legal issues that arise and applicable remedies, if any, in relation to the:

- (i) termination of the employment contract with Mr. Smith;
- (ii) accident involving Mrs. Sue;
- (iii) letter received from Ms. Dallflower; and
- (iv) damage done to his factory and car by the fire.

Note:

Your advice must not exceed **4,000 words**.

END OF PAPER