

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATIONS 2023

LAW OF REMEDIES

(WEDNESDAY, MAY 03, 2023)

**Instructions to Students**

- (a) Time: **3½ hours**
- (b) Answer **ALL** questions.
- (c) In answering any question, 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.**
- (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**

Sandy purchased a two-bedroom house in Cherry-Hill, a gated community, from New Homes Development in your jurisdiction. The agreement for sale entered into by Sandy contained by-laws for the community. Clause 12 of the by-laws provides that all homeowners must erect carports to the right of any dwelling house in accordance with the approved plans provided. Sandy, who recently purchased a new Kia motor car, began constructing a carport without engaging an architect, a decision which saved her \$700.

While driving, Martin Manager, the president of the Cherry-Hill Community Association, noticed that Sandy's carport (which is 85% complete) was located on the left side of her dwelling house. Sandy would have been made aware of the specifications for the carport when she signed the agreement for sale, and this fact would have been reinforced if she had engaged an architect.

Sandy instructs you that the community has suffered no loss, but shows you a letter from the community association stating that it is prepared to undertake the steps necessary to maintain order in the community and to combat disorderliness and non-compliance.

Sandy also operates a small honey business from her home. Since purchasing her new house, she decided to use one of the rooms to increase her honey production. She contracted with UQbuilds to design and construct beehives. The contract provided that each beehive was to be built 16" x 19  $\frac{7}{8}$ " x 9  $\frac{5}{8}$ " in dimensions, gave the delivery date as May 1, 2023 and the contract price as \$250. Sandy paid the contract price in full, and the beehives were delivered on time. On closer inspection, Sandy realised that the hives were only 16" x 19  $\frac{7}{8}$ " x 5  $\frac{7}{8}$ " in dimensions. Sandy indicated that the smaller hives resulted in a decrease in profits. Every three months, she could only produce 70 bottles of honey instead of the 100 she could have produced, had the hives been built according to her specifications. She sells her honey at \$25 per bottle. Sandy wants the hives rebuilt to the contracted specifications.

Advise Sandy on the potential remedies available, and the legal bases on which the court may grant an award.

## **QUESTION 2**

Charmaine owns an eco-friendly guest house in your jurisdiction. It is a tranquil property with a beautiful river running through it. Guests can picnic, fish, and escape the 'concrete jungle' of city life. The rate for the property is \$85 per night. Adjacent to her property is an adventure park owned by Rascal, who operates a guest house. Rascal also provides guided excursions.

One evening Rascal, who is very jealous of Charmaine because a river flows through her property, enters her land while he knows she is away and dams the river. He uses several cut trees to redirect the water flow through his property. His actions are intended to put a damper on the competition from Charmaine's guest house and increase his profits.

Over the next few days, the area experiences an increase in rainfall which causes the makeshift dam to burst. The rise in water produced due to the burst dam causes the banks of the river to overflow. This increase in water levels causes extensive damage to Charmaine's guest house.

On her return, Charmaine finds that her guest house is waterlogged and her bedding, furniture and electronic devices are extensively damaged. She is unable to book any guests for the next three weeks. The cleaners charge her \$400 to remove all the silt and debris from her property. The decreased flow of visitors to her guest house will also prevent her from making her upcoming mortgage payment. On hearing the news, Charmaine's mother has a heart attack and is hospitalised for two weeks.

The market value of Charmaine's guest house is \$200,000 and the cost of repair is quoted as \$80,000. Charmaine cannot relocate her business as she cannot afford the cost.

Advise Charmaine on the issues arising in relation to a claim which may be brought by her, and the calculation of her losses and expenses by the court.

---

## **QUESTION 3**

Five months ago, Paul's car collided with the right side of Jonnie's blue 2017 Toyota Hilux motor truck after breaking a red light. Jonnie had a dash camera affixed to his vehicle which recorded

Paul on his phone at the time of the accident. Paul has since admitted liability in a statement given to the police. The repair cost for Jonnie's vehicle is \$15,000 and the replacement cost is \$40,000.

Jonnie is a 35-year-old construction worker who suffered a shattered leg, fractured ribs, and a concussion in the accident. He was not wearing his seat belt.

As a result of the accident, Jonnie has lost wages and incurred significant medical bills and other costs. Jonnie's doctor notes that he will need physical therapy for the foreseeable future and has advised that he will be unable to lift anything heavy for approximately six months. He was also told to limit the time he is on his feet to no more than 30 minutes at a time, for a similar period.

Jonnie's medical expenses now stand at \$50,000, and his lost wages total \$10,000. He receives physical therapy twice weekly, and each session costs \$200. Jonnie's clothing, valued at \$250, was destroyed in the accident. His Michael Kors watch, valued at \$300, was also lost.

Jonnie had intended to go on a farm-work programme later in the year. He had yet to apply but was sure his application would have been successful. Jonnie would have earned \$4,000 per month for a six-month contract, at the end of which he would have been paid a \$2,000 gratuity. However, the deadline for making the application for this year passed while he was convalescing.

Advise Jonnie generally on the damages he will likely recover, and the legal bases for calculating the award.

---

**END OF PAPER**