

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS 2023

LAW OF REMEDIES

(FRIDAY, AUGUST 11, 2023)

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

Sandy, a secretary for the past five years, employed to the investment firm Bigshots, wanted to purchase shares in Great Beams Limited, a company which specialises in Green energy solutions. Bigshots was selected by Great Beams to be the broker to list their initial public offering (IPO).

Sandy signed an investment agreement (the Agreement) with Bigshots, for the purchase of 50 shares in Great Beams. Sandy deposited \$50,000 into her investment account to be used to purchase 50 shares in Great Beams, at a cost of \$1,000 per share. Sandy indicated to Bigshots that she wanted to purchase shares in Great Beams to earn enough to settle her mortgage, and pay for her son's college education.

After Sandy signed the Agreement, she went on vacation leave for two weeks. On her return, Sandy checked her investment account and discovered that the 50 shares in Great Beams had not been purchased, and the \$50,000 deposited was missing from her account. On Sandy's return to Bigshots, she discovered that the company was under investigation by the regulatory authorities for its poor accounting practices. Sandy is unable to settle her mortgage payments and her son has had to defer his attendance at Oxford University, due to her inability to meet the financial obligations. Her changed situation has resulted in her being diagnosed with anxiety by a psychiatrist.

By letter dated May 3, 2023, Sandy's employment was terminated by Bigshots because the firm could no longer afford her services. She was previously a permanent employee. Sandy was not given notice or payment in lieu of notice. Sandy earned a yearly salary of \$120,000 and her contract of employment was determinable by three months' notice. In addition to her salary, she was also entitled to a year-end bonus of \$10,000, an annual study grant of \$5,000 and luncheon vouchers totalling \$100 per week. Sandy has sent several job applications to various institutions, but has been unsuccessful in obtaining a job as she claims that no one will hire her based on her former employer's reputation.

Advise Sandy on the legal recourse that she can take against Bigshots, and how her losses are likely to be assessed.

QUESTION 2

Stan owns a restaurant which is on property located adjacent to a farm owned by Mr. Parnel. For some time, Stan has been aware of a leak on his property. The leak has caused water to trickle onto the land of the neighbouring farm. Mr. Parnel had previously warned Stan about the leak and its potential impact on his farm. However, Stan failed to adequately address the issue and, two days ago, Mr. Parnel awoke to find that there had been significant flooding of his land. The flooding killed a large number of Mr. Parnel's broiler chickens and destroyed the entire crop of corn stored in his barn. The barn had also subsided.

A contractor evaluated the damage caused to the farm, and gave the cost of repairing the barn as \$50,000. His report recommends the use of specialised equipment to lift the barn and to construct a new foundation under it. It gives the cost of constructing a new barn as \$70,000. Both sums include the cost of building material and labour. The latter sum includes the cost of demolishing the barn and removing the debris.

Mr. Parnel has come to see you. He tells you about the flooding and its impact on his farm. He instructs you that he sells his chickens when they are six weeks old. His chickens would have been ready for sale three weeks after the flood. He usually makes a profit of \$20,000 per 500 chickens that he sells. Four hundred chickens were killed in the flood. Four hundred three-week-old chickens could be bought for \$8,000, but he has nowhere to house them until the water recedes.

Mr. Parnel instructs you that he had a contract to sell his entire corn crop to a local mill, and had arranged for a truck to transport it to the mill on the day of the flood. He was forced to pay the cost of hiring the truck (\$2,000) as it was too late to cancel, and had lost the \$12,000 which he would have made from the sale of the corn.

He further instructs you that Stan had approached him on several occasions, expressing his desire to purchase his farm so that he could expand his restaurant. However, he had always refused to sell the farm to him. Mr. Parnel tells you that, this morning, he overheard Stan saying to his wife, Barbie, that he (Stan) was sure that the flood had ruined him (Mr. Parnel), and he (Mr. Parnel)

would have no choice but to sell the farm to him now. His wife had responded, “You were right, not fixing that leak was a genius plan.”

Advise Mr. Parnel, indicating any claims he may have, and the appropriate remedies to which he may be entitled, giving reasons.

QUESTION 3

Tandy’s Ford Escort motor car collided into the front section of John’s 1971 Plymouth Barracuda motor car, while making an illegal U-turn on Green Boulevard. The bonnet and engine of John’s vehicle were damaged, and the motor car had to be towed to a nearby garage as it was not roadworthy. John has to pay storage fees at a cost of \$1,000 per day.

John also sustained lacerations to his face, whiplash and a sprain to his right arm, as a result of the accident. John was admitted to the hospital for two days, where he was treated for the injuries sustained, and prescribed painkillers to relieve the pain. Despite the advice of the doctors, John refused to take a tetanus shot on the grounds that all injections were poisonous. He later developed a scar on his face which was unsightly. Disgusted by the scar, he took a trip to Colombia to undergo plastic surgery to have it removed, at a total cost of \$20,000. John has had no transportation since the accident as he cannot afford the cost associated with a replacement motor car. John has been unable to travel to and from work, and has thus been unable to monitor the distribution business which he owns.

Tandy has admitted liability and has offered to repair John’s motor car at a repair shop of her choice at a cost of \$80,000. John has refused her offer as he is very attached to his motor car and refers to it as “his baby”. The vehicle is a classic and is serviced every two months by John, and has a V8 engine that provides 375 hp; a “muscle” car, it is his pride and joy. John wishes to repair his motor car at a custom repair shop at a cost of \$150,000. The replacement cost of the car is \$133,000.

Prior to the accident, John had purchased a ticket with Cruisewind for a 15-day cruise to Alaska for \$2,000. The cruise, as advertised, provided for an all-inclusive experience with food and entertainment provided. The catch phrase for the cruise line was, "Come sail with us and have the time of your life." On the first day of the cruise, John consumed a meal which contained spoiled fish and suffered food poisoning as a result. He suffered severe stomach pains and had to receive intravenous fluids for rehydration. His situation worsened over the following days and he was eventually airlifted to the hospital. John's experience on the cruise ship has left him emotionally distraught. He wishes to recover the cost of his ticket and to be compensated for the trauma he experienced.

John is also displeased about the damage done to his motor car and the injuries he sustained in the accident.

Advise John of any claims he may have, the appropriate remedies to which he may be entitled, and how the losses are likely to be assessed, giving reasons.

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