

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1995

REMEDIES

Tuesday, August 8, 1995

Instructions to Students:

- (a) Time: 3½ hours.
- (b) Answer FIVE (5) questions.
- (c) In answering any question a candidate may reply by reference to the law of any Commonwealth Caribbean territory, but must state at the beginning of the answer the name of the territory.
- (d) It is unnecessary to transcribe the questions you attempt.

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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Corianni McVagabond (Nanny) owns premises at 2 Breese Lane which she lets to Miss Ann Deen, a dressmaker. Corianni desires to recover possession of the premises "using the cheapest way possible." She told Miss Deen that the monthly tenancy was a waste of time and asked her to find alternative accommodation. She refused to accept rent from Miss Deen who refused to leave the premises.

Corianni caused the electricity to be disconnected and Miss Deen could not use her sewing machine to carry on her trade. Food stored in Miss Deen's refrigerator spoiled.

Corianni, when she saw that Miss Deen was still in occupation sent two men accompanied by a police officer to the premises. The men under the watchful eye of the police officer took off part of the roof over Miss Deen's bedroom. One of the men suggested that they should use two of the pieces of zinc from the roof to barricade the front door "so she will know that Nanny means business." The police officer said that that part was "outside his terms of reference" and turned his back as the zinc was nailed across the door. One man said, "assifa (derogatory reference for officer) ask the commissioner what your real terms of reference and let him know how much Nanny pay you for this job."

Miss Deen, who was inside at all times, called the police who removed the zinc.

Miss Deen who is unable to sleep in her bedroom took out a summons against Corianni who was tried and received a suspended sentence of two months imprisonment.

Subsequently, thieves entered through the hole in the roof and stole a television set and video, cutlery and several

rolls of fabric. The damaged roof makes her nervous and embarrassed. She wants to know if she can get any redress against Corianni.

Advise Miss Deen.

QUESTION 2

It was the morning of Miss Maria Bella's wedding day. Her mother Carmella Bella hired a van and went to collect her daughter's six-tier wedding cake and numerous pastry items to be taken to the reception centre. She also collected her daughter's gown. The van stopped for fuel at Petro Centre Station. As a result of the negligence of the gas station attendant the van was destroyed by an explosion.

The wedding cake was ruined and the dress was burnt to cinders. Mrs. Bella suffered severe burns to her hands and face.

When Maria heard the news she suffered nervous shock and was hospitalised.

Maria's fiance is no longer interested in a marriage with Maria.

Advise the manager of Petro Centre Station.

QUESTION 3

Sara Lou Tyco was employed to the Tourist Board as a holiday package agency and destination analyst. She was required to analyse the operations of travel and tour agents as well as

airlines and destinations to ascertain their "strengths and weaknesses". This was an "ongoing" process and required her to travel extensively at the expense of the Tourist Board.

She was answerable to the Director of Tourism and she supervised two word processing clerks who typed her reports. Miss Tyco is unable to type.

In January this year a new Director of Tourism was appointed and at a Board meeting it was decided to set up a committee "to look at Miss Tyco's portfolio".

Mr. Grenverb the sole committee member reported that "Miss Tyco, apart from her sartorial elegance has no qualification for the position and her reports are a mass of verbiage culled from airline and travel magazines and brochures."

He added, "Her appointment was only explicable by her close relationship with the previous director."

Subsequently, the Director was informed by Miss Tyco that she had written her own job description.

Miss Tyco was dismissed without notice and with effect from April 31, 1995.

Miss Tyco, under her contract was entitled to:

Basic pay	\$20,000 monthly
Clothing allowance		5,000 monthly
Entertainment allowance		2,000 monthly
Housing allowance		2,000 monthly
Transportation allowance		6,000 monthly
Annual holiday to a destination and at a time selected by her.		

Advise Miss Tyco.

QUESTION 4

Beezee Bee Caterers were in the habit of purchasing all their poultry supplies from Best Birds Limited who were well known for their first quality supplies. Earlier this year Beezee Bee and Best Birds Limited agreed that Beezee Bee would be supplied with an agreed amount of chicken to meet their ordinary needs as well as the "Easter increase demand." The price was paid in advance in accordance with the course of dealing between them.

Best Birds Limited failed to deliver the goods ordered and paid for by Beezee Bee. The manager of Beezee Bee noted a full page advertisement in the newspaper indicating that Best Birds Limited were "re-organising their method of production" and regreted their inability to supply first quality poultry to their customers.

This advertisement appeared two weeks before Easter and Beezee Bee's supply of poultry meat was "very low and inadequate".

Chicken supplies were available on the market. The quality was not up to Best Birds' standard and prices had risen by 25% by reason of increased demand.

Beezee Bee Caterers were unable to meet the demand of their customers and as a result suffered losses.

Advise Beezee Bee Caterers.

QUESTION 5

Benjie Darwin suffered severe injuries to his spine in an accident for which his employers have accepted full liability. He is paralysed from his waist down and is confined to a wheelchair.

Benjie's employers intend to pay for his re-training so he could do a desk job. They are paying him his regular salary pending his completion of the retraining programme. He has free access to his employers' medical facilities for regular medical checks and medication.

Benjie was 25 years old last January when the accident occurred. He will be confined to a wheelchair for the rest of his life.

Benjie's mother, Mrs. Darwin, is worried over the fact that Benjie is "taking the matter too easy." She wants to know what rights Benjie has against his employers whom she suspects "will fire him after they are tired."

Mrs. Darwin wants to know if Benjie is entitled to any money and whether she will be able to recover all the expenses of transportation, doctor's bills and prescription expenses she had disbursed when Benjie was in the Public Hospital.

Advise her.

QUESTION 6

Reno Smart owned 12 acres of beach land which is a very attractive site for investment. He had on two previous occasions agreed to sell the land. Each time the purchaser had to forfeit the deposit.

A new comer to the district, Wilbert Serius, entered an agreement with Reno to purchase the land for \$4.5M. Reno requested a deposit of 5% instead of the usual 10% and that completion be within 90 days. The agreement was duly signed and the deposit paid.

Before the agreement was signed Serius told Reno that he had plans to build a beach cottage complex on the land. Reno did some research on Serius and to his astonishment discovered that Serius was well able to complete.

Reno caused his wife to lodge a caveat on the title so as to prevent the sale. He then tells Serius that he is unable to sell the land to him.

Advise Serius.

QUESTION 7

Miss Perfecta Billingham was placed second in an elimination contest for her community Harvest Queen Contest which had been organised by H. Alderton Olsen Enterprises - a company formed and managed by Mr. H. Alderton Olsen who gives his occupation as impressario. According to the rules "the persons who placed first, second, third and fourth would be entitled as of right and without further ado to enter the finals."

Mr. H. Alderton Olsen in breach of the rules refused to permit Miss Billingham to take part in the finals. Miss Billingham knows that the winner would be entitled to a prize trip to New York or Ontario, \$50,000 for a new wardrobe and various cash prizes. She tells you that she is quite sure she is able to win the first prize.

Miss Billingham seeks your advice.

Advise her.

QUESTION 8

Joy, aged 18, is the only child of her parents, Carl and Sherry, aged 55 and 50 respectively. Joy did exceptionally well at High School and has obtained a scholarship to study medicine at the University. Shortly before embarking on her medical studies, Joy was killed in an accident on the highway, for which Fred was responsible.

Under a life insurance policy effected by Carl on Joy's life years ago, Carl and Sherry received the sum of \$100,000. Carl who had just obtained Letters of Administration to Joy's estate tells you that both he and Sherry invested a lot of time, energy and money in Joy's education. He now suffers from a heart condition and it was his and Sherry's hope that as soon as Joy qualified as a doctor and began to earn, he would retire and Joy would look after them both.

Advise Carl as to the causes of action arising as a result of Joy's death and the measure of damages recoverable.
