

COUNCIL OF LEGAL EDUCATION NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

FIRST YEAR SUPPLEMENTARY EXAMINATIONS, OCTOBER 2020

LAW OF REMEDIES

WEDNESDAY, OCTOBER 7, 2020

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 bibliography are not required.
- (g) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (h) In answering the 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.**
- (i) 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.
- (j) 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 OCTOBER 2020 EXAMINATIONS, LAW OF REMEDIES DROP BOX on TWEN** by **Thursday, October 8, 2020, NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).

- (k) 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 -1176 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box A Year I - 1100-1176***”.
 - Year I students with Examination ID numbers between 1177 -1252 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box B Year I - 1177-1252***”.
 - Year I students with Examination ID numbers between 1253 -1326 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box C Year I - 1253-1326***”.
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You had a virtual client conference with Mr. Hugo Wellington (Hugo), yesterday. Hugo is a businessman who has a globalised approach to business operations. Hugo informed you that he is “cumbered with a litany of problems”.

He says he owns a parcel of land, Lot 50 part of Bentley Cove Subdivision, on which he wants to build a three-storey house as a kind of holiday resort for whoever can pay. His plan is that, during the winter months, his relatives and friends overseas, as well as his international business contacts, instead of staying in hotels, would be able to ‘winter’ in his private resort. He would install facilities for gaming, swimming and shopping.

The other lot owners in the subdivision are writers and retired professionals.

About three months ago, in accordance with one of the covenants on the land title, Hugo presented his building plan, for approval, to Mr. Maeshal Grange, the manager of Residential Planners Limited (Residential). He had bought the lot from Residential, which still owns a number of unsold lots. Grange told him that he would receive an answer from the planning committee as soon as possible.

He has indeed received an answer but it is not the answer that he expected. It is an interim order restraining him from building any structure, except in accordance with the covenants endorsed on the title, namely, that no building should exceed two storeys in height or be used for non-residential purposes. Further, the order specifically restrains him from

building any structure according to the plan he had deposited in the offices of Residential or any other plan not approved by them.

Hugo has also received a letter from a Ms. Lillybrite Cabie, an attorney-at-law, acting on behalf of Mr. Zigo Dolittle, owner of the lot adjacent to Lot 50 Bentley Cove Subdivision. The letter draws Hugo's attention to "his threatened breach of covenants, threatened nuisance and breach of right to privacy". The letter also contains a warning that, if Hugo persists in carrying out his plans, "the consequence would be unpleasant to say the least".

Hugo holds the view that the interim order and the letter from Ms. Cabie are "merely much ado about nothing" and that he is "prepared to ignore these small-timers" much to the disagreement of his wife. On her recommendation, he has consulted you for advice.

Hugo is a professional intermediary and this has earned him handsome fees. He is a party to an agreement with ViceroyEngineering (Viceroy), a firm of highway construction engineers, to introduce them to a certain Middle Eastern Government. He has close and valuable contacts with them and has, in the past, negotiated engineering connections.

In this contract, Viceroy agreed that, except with Hugo's consent, Viceroy would not, by any means whatever, contact the Middle Eastern Government directly but would, at all times, channel communication through him (Hugo). Viceroy also agreed that all discussions between Hugo and Viceroy should be confidential and should not, at any time, be disclosed to any person except with Hugo's consent.

Hugo has recently received a letter from the Middle Eastern Government indicating that they have been contacted directly by Viceroy and, from the exchange of communications, they are satisfied that Viceroy has the capability, in relation to engineering skill and financial connections, to carry out the project. They are no longer interested in Hugo's services at this juncture. His calls to Viceroy's offices and to his contacts in the Middle Eastern Government have so far been ignored.

Hugo and his three sisters have inherited, from their parents, a 12-acre plot of agricultural land in Red Plains District, in the jurisdiction. It is situated a few miles/kilometers from the town. There is a "family plot" about one quarter of an acre where there are ancestral graves. Hugo, who studied agriculture at tertiary level, has cultivated the land extensively. This contributes to the food security of his family, relatives and the community and nearby town. He has been supported, over the years, by a sizeable and loyal workforce, some of whom had worked for his father.

On the morning of April 20, 2020, one Jair Littlecence, who said he was a representative of Housing Developer (HD), with head office at Lister Lane, visited Hugo. Littlecence indicated that HD, had been observing the land for a long time, desired to buy the land for the construction of a new middle-income settlement. Littlecence, replying to a suggestion by Hugo, that he (Littlecence) was crazy indicated that he was in his right mind and that HD would, because of the situation, permit Hugo to reap all his crops, even after the transaction was completed. Hugo, who was outraged, asked Littlecence to leave

the premises and not to return for any purpose whatsoever. Hugo told Littleseance to change his name to Nosense and that he and his company were plagues greater than Covid-19. Littleseance, who muttered something like “listen out”, got into his little red car, revved up the engine and sped away.

The day after the encounter with Littleseance, to Hugo’s dismay and horror, he heard on the Morning News, a report that “six workers on a certain farm in Red Plains District have been diagnosed with the novel corona virus. All the other workers on that farm, as well as the owners who live there, are in isolation. The farm has been placed under quarantine by the Department of Public Health and Wellbeing. The owners, who are self-sustaining, are not in need of care packages. Vigorous contact tracing to prevent community spread has already commenced by the Department’s surveillance teams. Attempts to contact the owner, a Mr. Hugo Wellington, have proved futile”.

Hugo, who was angry and outraged, called the Department and the public relations officer promised to investigate and take the necessary follow-up steps. The matter was cleared up during the course of the day. The Rapid Radio Station, which had broadcast the false information, later that day, broadcast a retraction and an apology. The Department issued a press release describing the report as “fake”, repeated their warning against stigmatizing persons and urged the media and consumers of information to only pay attention to credible sources.

Notwithstanding this, not one employee has turned up for work since that time and Hugo has not been contacted by any of them. His calls to their telephones went to voicemail every time. Further, persons who had habitually come to purchase fruit and produce at the farm gate, have ceased to do so. The fruits and vegetables are perishing and the place is overgrown with weeds. Contracts for delivery of produce to supermarkets in the nearby town and elsewhere have been canceled.

Hugo believes that the farm and his family have been stigmatized by the fake news report. Hugo, his wife and minor son, Hugh, have been denied entry to supermarkets. He has been refused service at petrol stations. His son, who is asthmatic, almost died because he was refused attention at a healthcare facility. He believes that Littleseance and HD are behind this.

Two weeks ago, Littleseance returned. He asked Hugo if he had come to his senses in relation to HD’s offer. Hugo reminded Littleseance that he was trespassing and threatened to release the dogs. Littleseance hurried to his car and tried to speed away. On his way out, he collided with Hugo’s car which was parked in the driveway. Both cars are damaged. Littleseance, who appeared to have been injured, was taken away in a taxi, leaving his damaged car behind. Hugo has pictures of the collision.

Required:

- i. Advise Hugo on the coercive and remedial implications of the interim order served on him by Residential Planners Limited, the validity or otherwise of the claims

made by Mr. Zigo Dolittle and any relief open to Residential Planners Limited, Mr. Dolittle or any other owner of lots in the subdivision.

- ii. Indicate whether Hugo has any cause of action against Viceroy and/or the Middle Eastern Government, as well as any remedy and the basis on which such remedy rests and the approach to assessment.
- iii. What are Hugo's rights against Housing Developers, Jair Littleence and Rapid Radio Station in relation to all that transpired before and after the publication of the fake news item by the radio station and on what basis would any such remedy be assessed.
- iv. Consider the visits of Jair Littleence to Hugo's farm, as well as the continued presence of Littleence's car on Hugo's land and advise Hugo on any cause(s) of action and remedies that may be available to Hugo in these circumstances and how a tribunal will approach such remedial issues.
- v. Advise Hugo on how he should proceed to prepare to make a claim for the damage to his car, his cause of action, likely remedy and considerations relative to assessment.

Note:

In relation to each part, i - v, your answer should not exceed **850 WORDS**.

END OF PAPER