

NOT TO BE TAKEN AWAY

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NORMAN MANLEY LAW SCHOOL
COUNCIL OF LEGAL EDUCATION

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS, 1992

STATUS, RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION
(Monday, May 18, 1992)

Instructions to Students

- (a) Time: 3 1/2 hours
 - (b) Answer FIVE questions only
 - (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 relevant territory.
 - (d) It is unnecessary to transcribe the questions you attempt.
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QUESTION 1

AB, an attorney-at-law, has handled all the legal affairs of YC, an elderly widow whose health has been declining but who is mentally alert. YC had informed AB that she wanted to sell one of her properties and to invest the money obtained in order to get an income towards her maintenance. She told AB that the property was worth \$300,000:-

AB thought it was a reasonable price and indicated his interest in purchasing it for himself. YC agreed to sell him for the \$300,000, and agreed for him to prepare the necessary transfer documents which he did.

Two years after the sale YC learnt from a real estate dealer that she could have obtained a far better price if she had advertised the property for sale.

YC, on learning this, consults you with a view to having the sale of the property set aside. She also wishes to know whether any other proceedings may be taken against AB.

Advise YC.



QUESTION 2

An attorney-at-law may at any time enter into an agreement with his client as to his remuneration.

By reference to decided cases and any relevant statutory provisions, discuss the extent to which this statement represents the law.



QUESTION 3

An attorney-at-law, J.A., is offended by the difficulty he experienced in getting the High/Supreme Court Registrar to accept for filing an action on behalf of his client M.P. which is identical to an earlier one which was dismissed because of M.P.'s failure to obey a peremptory order by the date fixed by the Court.

J.A. writes to the Judge before whom hearing of the action is fixed complaining that the course of justice has been obstructed by some "mindless court official" and otherwise expressing his deep disgust with the performance of the Registrar.

J.A. is summoned before the Court and the following question is put to him by the Judge: "Do you recognise that as an officer of the Court your letter is a contempt of court?" J.A. says he does not consider it to be so and asks whether in the circumstances he will be allowed to have Counsel represent him. The Judge refuses and without more he is sentenced to seven days imprisonment for contempt.

Advise J.A. who wants to appeal.

QUESTION 4

On February 28, 1992, Reno gave Jones, an attorney-at-law, a cheque for \$15,000 to meet the following -

- (i) \$2,000 to meet the costs of a matter concluded in the previous month;
- (ii) \$10,000 to meet the prospective costs in a matter which had been filed two weeks before;

one of whom is Raphael, and returned to Michael for safe keeping.

There is a provision in the statute dealing with wills which states inter alia that if any person shall attest the execution of any will, to whom or to whose wife or husband any beneficial devise shall thereby be given then such devise to such person or wife or husband shall be utterly null and void.

Nancy dies and when Raphael and Gloria go to Michael for the will he advises them that the gift to them is null and void as Raphael has attested the will.

Advise Raphael and Gloria if they have any, and if so what, cause of action against Michael setting out clearly the legal principles involved.

(b) Hilda was a member of the Happy Wanderers Club, the members of which decided to take legal action against the owner of the premises occupied by the Club. Though Hilda had just recently graduated from Law School, she volunteered to represent the members free of charge. The statute under which the action was brought was very difficult to interpret but Hilda had failed to realize that and assured the members of success.

Hilda failed on all the grounds including the ground taken by the attorney-at-law for the landlord that the action was brought outside the limitation period. The members are very annoyed, especially since Hilda had assured them of success, and have consulted you with a view to taking legal action against Hilda.

Advise the members.

- (iii) \$3,000 to meet the cost of retaining Jones in the said matter filed two weeks before.

Jones deposited the full amount of the cheque into his private account, the only account which he operates.

On April 21, 1992, Reno orally asked Jones to account for the money he received. That same day, Jones gave him an account with which he was satisfied.

On May 15, 1992, when Reno again orally requested a statement from Jones, Jones became annoyed and requested that Reno leave his office.

Reno now consults you. He is particularly anxious as he understands that a number of Jones' clients are complaining about their inability to get back their money or to obtain any proper account therefor.

Reno is prepared to take the matter to the local law association if it is necessary.

Advise Reno on all relevant matters.

QUESTION 5

(a) Nancy retains Michael, an attorney-at-law, to prepare her will. Among the gifts she wishes to make by her will is a devise of certain premises to Raphael and Gloria as joint tenants. Raphael and Gloria, who are husband and wife, are friends of Nancy who live in the same house as Nancy.

Michael receives his instructions, prepares the will and sends it to Nancy. It is signed by Nancy and attested by two witnesses,

QUESTION 6

Angus, an attorney-at-law, was verbally engaged by Bernard to handle a number of legal transactions. ^{letter} Angus sent Bernard a bill covering his fees for those of the transactions which he had completed.

Bernard refused to pay anything, contending that Angus was not entitled to any payment until all the transactions were completed.

Angus thereupon informed Bernard that he was terminating the retainer and promptly sued Bernard for his fees. Bernard consults you and seeks your advice.

- (a) Advise Bernard on all relevant issues.
- (b) Would it have made any difference if Angus had evidence that Bernard was about to emigrate to Canada? ²²

QUESTION 7

(a) A client requires bridging finance from his bank in order to pay the deposit on the purchase of his new house. The client's bank asks you to give an undertaking to repay the bridging finance out of the proceeds of sale of the client's existing property. You have been instructed to act in connection with both the sale and purchase transactions.

What points should you bear in mind when giving the undertaking?

(b) XY, attorney-at-law acting for ST, in the course of the proceedings, undertook that he would "see to it that ST would give a charge on his property to meet his liabilities towards the

plaintiff RM." As a result the matter was discontinued.

ST is now refusing to execute the necessary documents to create the charge and RM intends to apply to the court for an order to be made against XY for breach of his undertaking and seeks your advice.

Advise RM.

QUESTION 8

Bruno asked Ezekiel, an attorney-at-law, to represent him in a matter. Ezekiel immediately agreed.

Two days later, realizing that he was not competent enough to handle part of the matter, Ezekiel briefed Marjorie to appear on behalf of Bruno.

The matter has been completed but neither Ezekiel nor Marjorie has been paid. However, Ezekiel has in his possession a number of papers belonging to Bruno.

Advise Ezekiel on -

- (a) his liability, if any, to Marjorie;
- (b) his right to the documents in his possession;
- (c) any action which he may take to recover any of the various fees outstanding.