

**COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS, 1997**

**STATUS, RIGHTS & OBLIGATIONS
OF THE LEGAL PROFESSION**

(Wednesday, May 28, 1997)

Instructions to Students

- (a) Time 3½ hours.
- (b) Answer **FIVE** 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.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Quikly, an attorney-at-law, has filed suit against Rankin on behalf of Vantage claiming damages for breach of contract and wages due and owing.

When the matter came before the Court for the first time Vantage did not attend and Quikly told the Court that she had written to the plaintiff advising her of the date. With the consent of the attorney-at-law for the defendant the matter was adjourned to another date and on that occasion Vantage attended. When the case was called Vantage expressed surprise that suit had been filed in the matter and told the Court that although she had discussed the matter with Quikly she had given her no instructions to file suit. Quikly informed the Court that she had indeed been retained and authorised by Vantage to file suit in the matter.

- (i) What principles should be applied by the Court in determining whether Quikly had authority to sue?
- (ii) Assuming that the suit had been filed without authority, what are the likely consequences for Quikly?

QUESTION 2

On February 15, 1996, an application was made by a member of the public to the Disciplinary Committee that Rogers, an attorney-at-law, might be required to answer a complaint that he has committed an offence of insulting behaviour in a public place amounting to unbefitting conduct and as a result his name should be struck off the Roll of Attorneys-at-law or such other order as the Disciplinary Committee may think fit.

The facts are that Rogers had collided with another motor vehicle on the highway and when the complainant came out of his vehicle to speak to Rogers he became very abusive and insulting to the complainant.

(a) Advise the Disciplinary Committee.

(b) Would your advice be different if Rogers as a result of the accident was prosecuted for driving a motor vehicle dangerously but was not convicted because at the hearing no evidence was offered?

QUESTION 3

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 her.

Michael receives his instructions, prepares the will and sends it to Nancy. It is signed by Nancy and attested by two witnesses, one of whom is Raphael, and returned to Michael for safe keeping.

There is a provision of 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 had 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.

QUESTION 4

Albert is a young attorney-at-law who has recently been admitted to practise. He is appearing before the High/Supreme Court for the first time and is representing John Jones on a charge of unlawful wounding and rape.

In cross-examination of the main witness for the prosecution, Albert started to ask certain questions of her when he was stopped by the judge who openly accused Albert of attempting to mislead the Court by the line of questions being asked. He said that Albert could not have received such instructions from his client and demanded to see the client's instructions. Out of deference to the judge, Albert handed the judge the written statement of his client which was in his file. The judge read the statement and then handed it to counsel for the prosecution who read it and then handed it back to Albert.

At the end of the trial John Jones was found guilty and sentenced to five years imprisonment.

Albert seeks your opinion -

- (a) on whether he should have refused to give the written statement of his client to the judge; and
 - (b) on whether he should advise his client to appeal the conviction.
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QUESTION 5

L.C., an attorney-at-law, was convicted for fraudulent conversion of property belonging to a client of his and sentenced to two years imprisonment.

He appealed his conviction and his conviction was quashed on a technicality.

A member of the Bar Association would like disciplinary proceedings to be taken against L.C.

Write an opinion as to how this could be done stating at the same time the possible orders that can be made against L.C.

QUESTION 6

Helen, an attorney-at-law, was appearing in the High/Supreme Court before Mr. Justice Grudge. During the course of the trial, she requested that the judge disqualify himself from any further hearing of the matter as she was convinced that, based on his rulings on a number of submissions made by her, he was not only wholly ignorant of that area of the law but was certainly biased in favour of the other party. She said that he was incompetent and a disgrace to the judiciary.

The judge immediately adjourned the proceedings and called you to his chambers. He says that he is determined to take strong action against Helen for her conduct and intemperate language.

Advise Mr. Justice Grudge as to the likely courses he could take.

QUESTION 7

- (i) John is charged with maliciously wounding his wife. He admits that he stabbed her intentionally in frustration over the many domestic and financial difficulties which he was experiencing at the time. He however informs Anthony, an attorney-at-law, that he intends to enter a 'not guilty' plea to the charge.
- (ii) Carol has been charged with possession of narcotics for the purpose of trafficking. Carol tells Anthony that she is innocent and that the police are trying to frame her.

The matter is now being tried and on the second day of the trial, Carol admits to Anthony that she is guilty as charged.

Advise Anthony as to the course of action he should adopt in (i) and (ii) above.

QUESTION 8

Joseph, an elderly man for whom Damian, an attorney-at-law, has acted on several occasions with respect to a wide variety of legal matters, is currently experiencing financial difficulties.

He visits Damian at his Chambers and invites him to purchase a commercial property from him at the price of \$350,000 although the market value of the property is twice that amount.

Joseph also instructs Damian to prepare his will for him and to include in it, a gift of priceless coins to Damian, in appreciation for his past services.

Write an opinion as to the course of conduct Damian should adopt in the above situation.
