

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

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATIONS, 1998

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

(Tuesday, May 19, 1998)

**Instructions to Students:**

- (a) Time: 3½ hours
- (b) Answer **FIVE** questions
- (c) In answering any question, a student 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.

---

**PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.**

**Question 1**

On January 1, 1998, Homeowners Development Company brought an action against Earth Movers Ltd. alleging various torts and/or breaches of contract extending from September 15, 1995 to December 31, 1997. The defendants retained, as their attorney-at-law, Miss S. George.

It became clear to Miss George at a very early stage of her preparation of the case that the proceedings would be a rather lengthy and complicated affair.

On March 5, 1998, Miss George requested the defendants to pay her some money and she sent a bill for the work she had already done.

On March 17, 1998, Miss George wrote to the defendants, requesting payment of her fees to be met by March 31, 1998. There was no response from the defendants.

Earth Movers Ltd. now seek the delivery of their documents from Miss George in order to hand them over to their new attorney-at-law, but Miss George refuses to deliver the documents. The company consults you.

Advise Earth Movers. Ltd.

---

**Question 2**

In March 1996, in consequence of a family quarrel, John James executed a will disinheriting his wife Mary and leaving his entire estate to his two children by a previous marriage. After a reconciliation he wrote to his attorney-at-law, Lenworth Phillips, instructing him to prepare a new will giving half his estate to his wife and the remainder to his two children.

Lenworth Phillips did nothing to implement those instructions except to prepare a rough draft will which was placed on a file in the office.

In November 1996, John James died without the new will being executed. In June 1997, probate was obtained for the March 1996 will.

Mary seeks your advice as to bringing proceedings against Lenworth Phillips.

Advise Mary.

---

**Question 3**

Charles is charged with murder and you have been retained to represent him.

He informs you that he did commit the crime but does not wish to plead guilty.

- (i) Can you properly represent Charles, and if so, what are the restrictions, if any, on your conduct of his defence?
  - (ii) Would your conduct be any different if Charles had made the confession at the hearing of the matter?
- 

#### Question 4

Cutie Greaves is the unsuccessful plaintiff in a suit for negligence arising out of a motor vehicle accident in which she was severely injured. She was represented by Best, an attorney-at-law. An appeal to the Court of Appeal has recently been dismissed.

Miss Greaves is dissatisfied with how Best conducted the case and has retained Thomas Fairman with a view to taking proceedings against Best. Fairman has requested you to write an opinion.

A perusal of copies of the correspondence, statements, pleadings, notes of evidence and judgments in the matter leads you to come to the following conclusions -

- (a) that although the pre-suit advice and the procedures adopted by Best were not wrong, you would have handled the matter in a different manner;

- (b) the pleadings provide evidence of negligence on the part of Best;
- (c) Best was negligent in the manner in which he presented the case before the courts;

Write an opinion as to what proceedings, if any, can be taken against Best.

---

### Question 5

On the date fixed for trial of an action in the Supreme/High Court, the attorney-at-law representing the Plaintiff was absent because he was engaged in another court in a country district. His brief was held by another attorney-at-law who knew nothing concerning the facts of the case and who was only asked that morning to hold the brief and ask for an adjournment.

The judge refused to grant the adjournment stating that in the circumstances another attorney-at-law could have been briefed long before in order that he could have been acquainted with the case. He stated that he was proceeding with the case.

The attorney-at-law holding the brief was embarrassed and became highly annoyed by the refusal. He exchanged heated words with the judge. He threw his hands into the air and said that this was a denial of justice and the judge was acting unjudicially.

He then picked up his documents and was about to leave the court. Whereupon the judge informed him that he was guilty of contempt of court and committed him to imprisonment for five days.

Advise the attorney-at-law on the merits of an appeal explaining the principles by which the court should be guided in exercising its power to punish an attorney-at-law for contempt.

---

### Question 6

Kenneth Sandiram, an attorney-at-law, was charged with aiding and abetting a businessman to conceal two B.M.W. motor cars which had been imported in breach of the Customs Act and with perverting the course of justice by destroying the files and records given to him when he was consulted by the businessman during the Customs investigation of the matter.

Sandiram pleaded guilty to the first charge, the cars having been found in his backyard recently re-painted and with the serial numbers partially altered. The prosecution did not proceed with the second charge.

The judge who heard the matter would like disciplinary proceedings to be taken against Sandiram and seeks your opinion on the procedure to be adopted and the likely outcome.

Write an opinion.

---

**Question 7**

Merle Jones was admitted as an attorney-at-law in Jamaica and in Barbados in 1990.

On November 15, 1997, the secretary to the Disciplinary Committee in Jamaica, wrote to the disciplinary body for legal practitioners in Barbados, advising them that on September 15, 1997, the Disciplinary Committee had ordered that Merle Jones be struck off the Roll of Attorneys-at-law in Jamaica.

The secretary also provided a copy of the particulars of complaint against Merle Jones and a copy of the reasons for the decision of the Committee. The allegation found proved against her was that she had given perjured evidence in her divorce proceedings in that she claimed that she had lived separate and apart from her husband for over a year when this was not so.

The disciplinary body in Barbados wishes to take disciplinary proceedings against Merle Jones.

Advise that body on how it should deal with the matter. [Assume that the law is the same in both territories].

---

**Question 8**

Mrs. Mason agreed to mortgage her house as security for a loan to her son Albert. Zannan, an attorney-at-law, was instructed by Albert to act for himself and Mrs. Mason in the matter. The mortgage documents were duly prepared and a meeting was held at Zannan's office for the documents to be executed. At the meeting the nature of the transaction was not explained to Mrs. Mason before she signed.

Albert's business subsequently failed and Mrs. Mason was left with the liability of repaying the mortgage.

Mrs. Mason consults you on whether any proceedings can be taken out against him.

Advise Mrs. Mason.

---