

**COUNCIL OF LEGAL EDUCATION**

**NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE**

**FIRST YEAR EXAMINATIONS, 1999**

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

(Tuesday, May 18, 1999)

**Instructions to Students**

- (a) Time: 3½ hours
- (b) Answer **FIVE** QUESTIONS.
- (c) In answering any question, a candidate may rely 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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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

**QUESTION 1**

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

The matter came before the Court for hearing but Vantage did not attend. Quickly told the Court that she had written to Vantage advising her of the date. With the consent of the attorney-at-law for Rankin the matter was adjourned to today's date and on this occasion Vantage attends. When the case is called Vantage expresses surprise that suit had been filed in the matter and tells the Court that although she had discussed the matter with Quickly she had given her no instruction to file suit. Quickly informs the Court that she had indeed been retained and was authorised by Vantage to file suit in the matter.

- (a) What principles should be applied by the Court in determining whether Quickly had authority to file the suit?
  - (b) If the suit had been filed by Quickly without authority, how should the Court deal with the matter?
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**QUESTION 2**

For eight years the law firm of Carson & McLaughlin acted as attorneys-at-law for National Securities, a brokerage firm. Carson & McLaughlin defended National Securities in a variety of securities matters.

Nine months ago, National Securities had a change of management and decided to replace Carson & McLaughlin as their attorneys-at-law.

Recently, Marianne Enderson, the chief executive officer of one of Carson & McLaughlin's corporate clients, encountered problems with one of National Securities brokers, Rodney Benson, an employee of National Securities for the past fifteen years. Marianne Enderson claims that Rodney Benson gave her misleading information about a company that has since gone bankrupt.

Mirianne Enderson has now consulted Carson & McLaughlin with a view to the firm representing her in legal proceedings against National Securities.

Write an opinion as to whether Carson & McLaughlin could properly represent Marianne Enderson.

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### QUESTION 3

(a) Albert, an attorney-at-law, was engaged by Bertram to handle a number of legal transactions. Albert wrote to Bertram requesting the payment of \$10,000 as his fees for those transactions which he had completed.

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

Albert thereupon informed Bertram that he was terminating the retainer. He then promptly sued Bertram for his fees. Bertram consults you and seeks your advice.

Advise Bertram.

(b) Karl, an attorney-at-law, is engaged by Joshua, a long standing client, to act for him in a number of legal matters including an action for damages for breach of contract.

Joshua is dissatisfied at the way the action for damages is being handled by Karl. He consults Marla, another attorney-at-law, about the action. Marla immediately agrees to act for Joshua in the matter and has written to Karl demanding from him all the papers belonging to Joshua. Karl is reluctant to do so as fees in the matters are outstanding. He also feels that he would be losing Joshua as a client.

Advise Karl on whether he can retain the papers belonging to Joshua.

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#### QUESTION 4

Lauren Barrow, an attorney-at-law, is instructed by Roy Lexington to prepare his Will, leaving his estate to his daughter, Selma, and to prepare a deed of gift giving his son, Mark, his 10-acre citrus estate.

Two weeks ago, Roy Lexington attended Lauren Barrow's Chambers and executed the Will and deed of gift.

Roy Lexington has now died leaving a wife and four children. It has been discovered that neither the Will nor the deed of gift was properly prepared and executed, with the result that the gifts to Mark and Selma have failed.

Mark and Selma consult you with a view to taking proceedings against Barrow.

Write an opinion.

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#### QUESTION 5

One year ago, Lawrence Quammie, a client of Cecil Dawson, an attorney-at-law, was charged with the murder of an elderly woman. When Quammie was charged by the police he gave a statement to Cecil Dawson confessing to the murder. However, immediately before his trial, Quammie recanted his confession to Cecil Dawson and blamed the murder on his friend Karl Senior. At his trial Quammie was acquitted of the murder.

Karl Senior was subsequently arrested and charged for the murder. At Senior's trial his attorney-at-law made an application, pursuant to the provisions of a local Act, to obtain from Cecil Dawson, the production of all documents likely

to be material evidence at his trial, including the written instructions given to Cecil Dawson in which Quammie had initially confessed to the murder.

Write an opinion as to whether Cecil Dawson could properly resist the application.

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**QUESTION 6**

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

The facts as stated in the affidavit sworn by the complainant are that Rogers had collided with the complainant's motor vehicle on the highway and when the complainant came out of his vehicle to speak to Rogers he became very abusive and threatening to the complainant.

Rogers, as a result of the accident, was prosecuted by the police for driving a motor vehicle dangerously but was not convicted because at the hearing the police did not turn up and the matter was struck out.

Advise the Disciplinary Tribunal on how it should proceed with the complaint and as to its likely outcome.

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**Question 7**

In delivering the opinion of the Privy Council in the case of Attorney General of the Gambia v N'jie [1961] 2 ALL E. R. at 503, Lord Denning noted that with respect to the exercise of its disciplinary jurisdiction that :

“ In the colonies, the judges have retained the power in their own hands, at any rate where the profession is fused. ”

In the light of Lord Denning's observation, write a legal opinion as to the position today regarding the taking of disciplinary proceedings against attorneys-at-law in your jurisdiction.

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**QUESTION 8**

On the completion of the hearing of the evidence in an action for negligence in which Curtis Rodriguez , an attorney-at-law represented the defendant, the judge reserved judgment to the following day. Rodriguez immediately applied to be excused from attendance and his application was granted. Counsel for the plaintiff then asked the judge if he, too, might be excused. The judge stated that the matter could not be carried on in the absence of the counsel for both parties, and thereupon withdrew Rodriguez's permission to be absent.

*This sentence  
was omitted  
from Q papers*

At the sitting of the Court the following day, the plaintiff's counsel was present but Rodriguez was absent without any explanation.

The judge issued a summons calling on Rodriguez to attend before the Court the next day to show cause why he should not be committed for contempt of Court.

The next day when Rodriguez appeared before the judge, the judge cited him for contempt of Court and without more, fined Rodriguez \$5,000 and ordered that in default he should be imprisoned for five days. Rodriguez wishes to appeal the judge's order and seeks your advice.

Advise him.

*Approved  
RW*

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