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NORMAN MANLEY LAW SCHOOL
Council of Legal Education

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 1989

STATUS, RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION

(Thursday, August 24, 1989)

Instructions to Students

- a) Time: 3½ 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 question you attempt.
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QUESTION 1

Discuss the duties of an attorney-at-law to:

- a) the court;
 - b) his client;
 - c) his profession;
 - d) the state.
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QUESTION 2

Explain what you would do in the following situations giving reasons:

- a) you are prosecuting counsel in a case of robbery with violence. A prosecution witness makes no mention in examination-in-chief that the accused, Flashman Smith, was present when the offence was committed. Indeed, in his statement which you have in your possession he states that he did not see the accused. However, while being cross-examined by Smith's counsel he states that he recognised Smith as the person who committed the offence;
 - b) you are counsel for the respondent in a case before the Court of Appeal. After hearing arguments from counsel for the appellant the Court has intimated that it does not wish to hear you. You are aware of a recent judgment of the Judicial Committee of the Privy Council which supports the appellant's arguments but which counsel for the appellant had failed to cite to the Court.
 - c) while serving as a magistrate you had conducted a preliminary examination into a charge of murder and the accused had been committed to stand his trial in the Circuit Court. The matter was tried but the jury failed to arrive at a verdict and a re-trial of the matter was ordered. You are now in private practice and the accused now wishes to employ you as one of a team of lawyers to appear on his behalf at the new trial.
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QUESTION 3

(a) In the relationship between attorney-at-law and client what is a "retainer" and how may it be effected?

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

When the matter comes before the Court for the first time Vantage does not attend and the attorney tells the Court that she had written to the plaintiff advising her of the date. With the consent of the attorney for the defendant the matter is adjourned to another date and on that occasion Vantage attends. When the case is called Vantage expresses surprise that suit has been filed in the matter and tells the Court that although she had discussed the matter with Quikly she had given her no instructions to file suit. Quikly informs the Court that she had indeed been retained and authorised by Vantage to file suit in the matter.

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

QUESTION 4

You have been retained by your Bar Association and Law Reform Committee to draft a model "Code of Judicial Ethics" governing the conduct of judges within the jurisdiction.

Prepare a memorandum setting out what you consider to be the principal provisions of such a Code referring to case law, codes of ethics and other sources.

QUESTION 5

(a) To what extent, if at all, is an attorney-at-law permitted to advertise?

- (b) Advise on the propriety of the following:
- (i) Lex Bookal, an attorney-at-law, permits his photograph and a statement by him to be published in a law journal recommending certain law books;
 - (ii) Bourne Toulouse, an attorney-at-law, during an election in which he is a candidate, places a political advertisement in a newspaper in which he is described as "Bourne Toulouse, Attorney-at-Law";
 - (iii) Broadman Biggs, an attorney-at-law, causes a sign six feet long and four feet high to be put over the front door of his office reading "LAW OFFICE OF DR. BROADMAN BIGGS, LL.B., B.SC. ATTORNEY-AT-LAW".
 - (iv) Teleman Phoney, an attorney-at-law, causes a listing to be placed in the "Yellow Pages" of the telephone directory giving his name and address and describing him as an attorney-at-law and notary public.

Give reasons for your advice.

QUESTION 6

- (a) What are contingency fees and what are the advantages and disadvantages of contingency fee agreements?
- (b) What are the social and ethical obligations of an attorney-at-law to offer his services in the provision of legal aid?

QUESTION 7

What authority does an attorney-at-law, duly retained have in respect of:

- a) accepting service;
 - b) making admissions;
 - c) compromising proceedings;
 - d) binding his client in respect of the purchase and sale of land;
 - e) investing client's money?
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QUESTION 8

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 Delano 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 the following conclusion:

- 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.
