

FOR REFERENCE ONLY

NO.

NORMAN MANLEY LAW SCHOOL
Council of Legal Education

56 / Supp.
COUNCIL OF LEGAL EDUCATION
MONA, KINGSTON 7, JAMAICA

LEGAL EDUCATION CERTIFICATE
SUPPLEMENTARY EXAMINATIONS 1979

STATUS, RIGHTS AND RESPONSIBILITIES OF THE LEGAL PROFESSION

Thursday, September 6, 1979

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 Jamaica, the Bahamas, or Belize, 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.

QUESTION 1

What do you understand by an 'entire contract' entered into between an attorney and his client? Discuss with reference to decided cases.

Can an attorney discharge himself from an entire contract and, if so, for what reasons?

QUESTION 2

The following statements were made by Lord Greene, M.R. in Groom v Crocker (1935) 2 All E.R. 394.

"The relationship of solicitor and client is a contractual one. It was by virtue of that relationship that the duty arose, and it had no existence apart from that relationship"

"In my opinion, the cause of action is in contract, and not in tort."

Discuss, with reference to other decided cases, whether the statements

describe accurately the nature of the cause of action that a client may have against an attorney whom he alleges to have been negligent.

QUESTION 3

"When an enquirer consults a businessman in the course of his business and makes it plain to him that he is seeking considered advice and intends to act on it in a particular way.....his action in giving such advice.....[gives rise to]a legal obligation to take such care as is reasonable in the whole circumstances."

Discuss with reference to decided cases.

QUESTION 4

During the course of a trial in the Supreme Court a noisy quarrel developed between opposing Counsel. Words to the effect "You are a stupid man; you are nothing but a fool; nobody is more dishonest than you; you are an idiot; you are an ignorant fellow", were exchanged. Both Counsel were warned by the Judge that if they did not desist he would cite them for contempt. One of them, Weakheart desisted; but the other, Blusterous, persisted with "you are nothing but a wretched idiot."

The Judge immediately fined him \$50 for contempt of Court and he has consulted you as to his chances on appeal.

Write an opinion.

QUESTION 5

At Mr. Wood's trial for murder a witness, Mr. Fish, gave evidence identifying Wood as the person whom he saw running away from a building in which the body of the deceased was found with gun shot wounds. Fish had given the same evidence at the preliminary enquiry. There was no other evidence of identification and an alleged confession by Wood was not admitted into evidence by the trial judge on the ground that it was not voluntary. In his written

statement to the police during their investigation of the crime, Fish said he had seen the back of a man running away from the building but he did not recognise him. That statement is in the possession of the attorney conducting the prosecution.

What action, if any, would you advise the prosecuting attorney to take and give reasons.

QUESTION 6

A legal practitioner, under a firm name, conducted the business of buying and selling property for clients and making loans to clients from clients' funds, and in the course of his professional work received money from clients. The moneys, save for those put on deposit in the names of particular clients, were paid into the client's current bank account kept in the firm's name. When the amount to the credit of this account approached \$20,000 the legal practitioner would place \$10,000 on deposit receipt in the firm's name with the words "for clients" added. Such deposits were not earmarked for a particular client or clients. When interest was paid on the sums so deposited the legal practitioner treated the interest as money to which he was entitled as his own. Such practice had been followed for a long time by other legal practitioners in the West Indies, but was not universal.

The legal practitioner similarly treated as his own, interest which was the excess of interest received by him from loans made by him to reliable clients over the amount of interest paid by him to clients whose money it was that was lent. It had been his practice to lend individual clients money out of the moneys of other clients in his hands, the interest payable by the borrower or to the lender being a matter of his discretion.

There was no agreement between clients and the legal practitioner that either category of interest should be his and there was no evidence from which such an agreement could be inferred or that the clients knew anything about the retention of interest.

Write an opinion for the Bar Association about the ownership of the interest.
