

NORMAN MANLEY LAW SCHOOL  
Council of Legal Education

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 1982

STATUS, RIGHTS AND RESPONSIBILITIES OF THE LEGAL PROFESSION

Monday, August 16, 1982

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 questions you attempt.
- 

QUESTION 1

Miss Bigbreef, a former law student of considerable ability and professional promise, has passed her final year examinations at the Norman Manley Law School.

She collects her Legal Education Certificate from the school's Registrar and appears the same day in the Magistrate's Court to represent her cousin Mabel charged with malicious damage to property. The presiding Magistrate, Mr. Street, enquires of Miss Bigbreef by what authority she presumes to appear for a client, in his court. Whereupon Miss Bigbreef extracts her Legal Education Certificate from her handbag and passes it up to him through the Clerk.

Mr. Street asks Miss Bigbreef if she intends to make a mockery of the Court and further tells her "Young woman, you will not be heard in the courts unless you put yourself in order". Thereafter he refuses to listen to Miss Bigbreef, saying repeatedly, "I'm afraid I can't hear you, madam".

Infuriated and perplexed, Miss Bigbreef requests you to advise her comprehensively on what she should do to "put herself in order" within the context of Mr. Street's intimation, giving a brief description of the contents of any document which you advise she should use in the process.

---

QUESTION 2

"An attorney is in a contractual relationship with his client, and indeed is liable only in contract and not in tort".

Examine this statement in relation to attorneys practising in the Commonwealth Caribbean.

QUESTION 3

In 1975, A a client of attorney Mr. Dunceman and his common law wife X, purchased property as joint tenants, intending to occupy it as a future matrimonial home. But soon after they became estranged. A departed to live in Miami and X remained in the house.

Mr. Dunceman has acted as attorney for A and X throughout the transaction of purchase and in the obtaining of two mortgages on the property.

Interest on the two mortgages taken by A and X to secure a loan to purchase the property, fell sadly and steadily into arrears and in May 1977, A's uncle, a clerk in the mortgage company of the first mortgagee informed A that the company would foreclose if payments of arrears were not made within three months. A immediately communicated with Mr. Dunceman, his lawyer, and with X, requesting both to arrange a sale of the property, to pay the arrears out of the proceeds, and to divide the remainder equally between A and X. Mr. Dunceman took no action and X replied by telegram saying that the house will have to be sold over her dead body.

In September 1977, the first mortgagee foreclosed and two months after the property was sold at the instance of the mortgagee for a sum barely sufficient to cover the principal sum, the interest arrears and the mortgagee's litigation expenses. A has been advised by several real estate agents that the property was worth more than it fetched at the sale.

In January 1979, the second mortgagee sued A on his personal covenant and the claim in the action was settled for \$10,000. A then sued his attorney, Mr. Dunceman, alleging professional negligence in failing to advise A of his right to apply to the court for a sale of the property before foreclosure, and failing to take steps to protect A's position as mortgagor. Accordingly, A claimed from Dunceman, as damages, the amount of \$10,000 paid by way of settlement in the action by the second mortgagee against A.

Mr. Dunceman defends and pleads contributory negligence on A's part.

Advise Mr. Dunceman, who chooses to appear in person on matters of salient consideration, and advert his attention to relevant decided cases.

QUESTION 4

Examine with reference to decided cases, the duties owed by an attorney:

- (a) to the State
  - (b) to the public.
- 

QUESTION 5

Mr. Tanomy, a practising attorney in Jamaica, while visiting Barbados in September, 1980, was convicted in a Magistrate's Court in that island on a charge of being in possession of marijuana, contrary to the Dangerous Drugs Act.

Mr. Tanomy unsuccessfully appealed to the Barbados Court of Appeal against the conviction and the sentence of six months' imprisonment.

In January, 1982, Mr. Tanomy, rested and repentant, returns to Jamaica and resumes practice.

Some members of the Jamaica Bar consider that Mr. Tanomy should not be allowed to resume practice and consult you for independent legal advice as to whether and what action may be taken to remove Mr. Tanomy from the roll of attorneys in Jamaica.

Advise them.

---

QUESTION 6

With reference to decided cases, identify circumstances in which the Courts may hold an attorney personally liable for costs.

---

QUESTION 7

"Generally speaking, the scarce availability of legal services to the poor is a matter of grave concern to right-thinking lawyers of the Commonwealth Caribbean". Examine this statement critically.

---

QUESTION 8.

With reference to decided cases consider circumstances in which an attorney may discharge himself of his obligations to a client who has retained him -

- (i) in contentious business;
  - (ii) in non-contentious business.
-