

NORMAN MANLEY LAW SCHOOL  
COUNCIL OF LEGAL EDUCATION

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 1991

STATUS, RIGHTS AND OBLIGATIONS OF THE LEGAL PROFESSION

(Friday, August 16, 1991)

Instructions to Students

- a) Time: 3 1/2 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.

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MONA, KINGSTON, 7. JAMAICA

**QUESTION 1**

During the course of a criminal trial for rape the judge intervened on numerous occasions. When the defendant was giving his evidence the judge interrupted several times asking questions and making comments some of which were adverse to the defence.

In his summing up to the jury, however, the judge could not be faulted in any way.

The jury returned a verdict of guilty and as a consequence the judge sentenced the defendant to three years imprisonment.

Defence counsel would like to appeal, one of the grounds being that his client was not given a fair trial because of the judge's interventions.

Write an opinion on the likelihood of his succeeding on this ground.

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**QUESTION 2**

On February 28, 1991, Reno gave Jones, an attorney-at-law, a cheque for \$15,000 for the following:

- (i) \$2,000 to meet the costs of a matter concluded in January, 1991;
- (ii) \$10,000 to meet the prospective costs in a matter which had been filed in February, 1991;
- (iii) \$3,000 to meet the costs of retaining Jones in the said matter filed in February.

Jones deposited the full amount of the cheque into his private account, the only account which he operates.

On April 20, 1991, Reno orally asked Jones to account for the moneys so received. That same day Jones gave him a complete oral account with which he was fully satisfied.

On May 15, 1991 when Reno again asked Jones for a statement, he became annoyed and requested that Reno leave his office immediately.

Reno now consults you. He is particularly anxious as he understands that a number of Jones' clients are complaining about their inability to get back their money or to obtain any proper account therefor.

Reno is prepared to take the matter to the local disciplinary committee if necessary.

Advise Reno on all relevant issues.

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### QUESTION 3

E, an attorney-at-law, is an associate in a firm of attorneys-at-law. He represented to a financial institution X & Co. that a specified sum of money belonging to his client Z, was shortly to come under the firm's control and he gave an undertaking to transfer the sum to the company when it was received. He had no specific authority to do this from his client who demanded the full amount on receipt by the firm.

On the security of the undertaking given, X & Co. had advanced a loan to Z but this loan was never repaid as the funds were never transferred.

X & Co. would like to institute proceedings against the firm to enforce the undertaking.

Advise X & Co.

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**QUESTION 4**

By reference to decided cases and statutory provisions, show how the law seeks to ensure that attorneys-at-law will always be able properly to account for any sums entrusted to them by their clients.

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**QUESTION 5**

Examine with reference to decided cases, the duties owed by an attorney-at-law to a client and to the court, and show, where there is a conflict, how this should be resolved by the attorney-at-law.

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**QUESTION 6**

Discuss the factors to be taken into consideration in the charging of fees and the submission of a bill of costs to a client by an attorney-at-law.

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**QUESTION 7**

"Defending counsel owes a duty to his client and it is not his duty to correct the judge if the judge has gone wrong".

Discuss this statement comparing the duties of defence counsel with that of prosecuting counsel.

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**QUESTION 8**

Six months ago while Joseph, a legal practitioner, was having drinks with his friend, Peter, Peter informed him that he wished to take legal action against his neighbour Payne. The next day Joseph filed an action against Payne in which he named Peter as the plaintiff.

When the matter came up for hearing Peter was absent from court. On enquiries by the judge, Joseph stated that he was surprised at Peter's absence as the action was instituted at his express request, albeit verbal. Counsel for Payne immediately objected and requested that the action be set aside.

The learned judge reserved his decision on the application and Joseph consults you as to the likely outcome.

- a) Advise Joseph and consider whether the judge is likely to make any order against him personally.
- b) Would your answer be different if Peter appears on the adjourned date and informs the court that, though he had given no approval for the institution of the action, he

now wants to ratify what was done?

- c) Assuming that Joseph had in fact been retained by Peter but that, unknown to Joseph, Peter had died two days before the matter came up for hearing and Joseph had continued with the action, what advice would you give to Joseph if Payne's counsel had made a similar application?
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