

**COUNCIL OF LEGAL EDUCATION**

**THE NORMAN MANLEY LAW SCHOOL**

**THE HUGH WOODING LAW SCHOOL**

**AND**

**THE EUGENE DUPUCH LAW SCHOOL**

**ANNUAL ENTRANCE EXAMINATION**

**July 8, 2016**

**Law of Contract**

**Law of Tort**

**Law of Equity**

**Criminal Law**

**Real Property**

**Instructions to Students:**

- (a) **Time: 3 ½ Hours**
- (b) **Answer ONE question from each subject, and identify on the booklet the subject and the question that the answer applies to.**
- (c) **EACH QUESTION MUST BE ANSWERED ON A SEPARATE ANSWER BOOKLET.**
- (d) **It is not necessary to transcribe the questions you attempt.**
- (e) **PLEASE ENSURE THAT YOUR CANDIDATE NUMBER ONLY, NOT YOUR NAME, IS RECORDED ON EACH ANSWER BOOKLET.**

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**PLEASE REMAIN SEATED UNTIL YOUR SCRIPTS HAVE BEEN COLLECTED.**

## LAW OF CONTRACT

1. Critically discuss, with reference to decided cases, any **one** of the following statements:

a) If a contract is illegal, usually a court will leave the parties where it finds them.

OR

b) Courts may rescind or reform a contract if a party's conduct produces a defect in the bargaining process.

2. Advise the parties in **both** of the following situations:

a) Cuppa Tea voluntarily sent her recipe for citrus flavours used in making an organic tea to Natural Tea Makers Company (NTMC). A letter accompanied the recipe, requesting NTMC to recompense her, should the company decide to use the recipe.

The Sales and Marketing vice-president of NTMC replied, thanking Cuppa for her suggestion, advising, "We shall be pleased to review your suggestion; however, please understand that our utilisation of it and your recompense, if any, rest entirely at our discretion." Cuppa did not respond to the letter.

Some eleven months later, NTMC introduced a new organic tea product that developed Cuppa's exact suggestion.

Cuppa Tea wants to know if she is entitled to compensation.

Advise Cuppa Tea.

- b) Barry entered into a contract with the Blue Roofing Company (BRC), BRC agreeing to construct a new red clay tiled roof on Barry's house at a cost of \$200,000.

BRC used three other colours in the construction - two shades of grey and pink. Consequently, the completed roof is sound and secure; however, in Barry's opinion the roof looks hideous.

Barry has decided not to pay BRC.

Advise Barry.

### **LAW OF TORT**

3. The rule in *Rylands v Fletcher* is but an application or instance of liability in nuisance.

Discuss.

4. Mazie Klein comes to your office. She instructs you that she was driving her car down Main Street when Robert and Gloria, who were pedestrians, suddenly crossed the road in front of her car. They were both texting on their cell phones as they walked along the roadway and as such were not paying attention to the road. There was a pedestrian crossing about two feet from where Robert and Gloria attempted to cross the road but they did not use it. Both Robert and Gloria suffered serious injuries.

Mazie further instructs you that she had a passenger in her car. His name was William. He was not wearing his seatbelt. He was thrown from the car and was seriously injured.

Advise Mazie as to her potential tortious liability.

### **LAW OF EQUITY**

5. The current view is that specific performance can be ordered whenever it is the most appropriate remedy.

Discuss the above statement with the use of decided cases.

6. John Smith and his wife Jane purchased a home in 2005. The title to this home is however vested in John's name alone. Jane had put up one third of the purchase price from her personal savings. Jane, who is a teacher also contributes to the family's income, pays for routine maintenance about the home, purchases items of furniture and brings up their two children. John and Jane also treat with all their property as being shared equally although this is not documented.

In 2013, unknown to Jane, John mortgaged the home to Sterling Bank, claiming to be the sole owner. He used the proceeds of this loan to finance a new business venture which he is pursuing.

John's business venture is a failure and he is unable to repay the loan. Sterling Bank has initiated proceedings to obtain possession of the home in order to be able to dispose of same by way of mortgagee sale.

Jane wishes to be advised as to whether she is entitled to any share in the home.

Advise Jane.

### **CRIMINAL LAW**

7. With the use of decided cases, explain the following:
  - a. Intention
  - b. Knowledge
  - c. Negligence
  - d. Recklessness
  
8. John and Peter were former friends. Their friendship ended because, unbeknownst to Peter, John had started to date Peter's girlfriend, Agnes. When Peter discovered the truth there was a fight between himself and John and the friendship ended.

Last Thursday, there was a party at the local club and all three persons attended the party. Peter came upon John dancing with Agnes. John started to laugh at Peter and said, "She left you for me, that is because you are no man at all but a little boy". Several persons heard what was said and laughed very loudly at Peter. Peter ignored these remarks and went over to the bar.

John followed Peter to the bar and repeated the remarks. Again nearby persons heard the remarks and laughed at Peter. Peter again said nothing. Peter's non-response angered John and he started to argue with Peter. Again Peter did not reply. John, feeling angry and emboldened by Peter's non-response, took out a knife from his side pocket and waving it at Peter, approached Peter threatening

to "deal with him once and for all". Peter became very angry, he reached under the bar where he knew the bartender kept his licensed firearm and fire several shots at John, killing John instantly.

The police were called and Peter was duly arrested. Peter was charged with the offence of murder. Peter's mother, Mary, has come to you seeking your advice. Mary believes that given that John is dead it is a forgone conclusion that Peter will be found guilty of murder. She seeks your advice on any possible defence(s) which may be available to Peter.

Advise Mary.

### **REAL PROPERTY**

9. Answer both (a) **and** (b):

- (a) Explain and illustrate the meaning of the expression "the four unities" in co-ownership and the effect of the presence or absence of such unities.
- (b) Explain the methods by which a joint tenancy can be severed.

10. Answer both (a) **and** (b):

- (a) Consider the situations where easements may be created in the absence of an express grant.

- (b) Fitzroy Black was, for many years, the owner of %Cherry Farm+. He also owns %Shortwood Farm+ which adjoins %Cherry Farm. Last year (2015) Fitzroy sold %Cherry Farm+ to Brenda Bean. When Fitzroy transferred %Cherry Farm+ to Brenda, the documents of sale did not refer to any easements or covenants.

Brenda now comes to see you. She tells you that

- i. the only direct access from the main road to %Cherry Farm+ is on a narrow foot path and, when Fitzroy owned both farms, he drove his pickup across %Shortwood Farm+ to reach %Cherry Farm+;
- ii. that %Cherry Farm+ has a wonderful view of the Capital City but she recently learnt that Fitzroy has applied for planning permission to erect a number of multi-story buildings on %Shortwood Farm+ which will block her view.

Advise Brenda.

**END OF PAPER**