

**COUNCIL OF LEGAL EDUCATION**

**THE NORMAN MANLEY LAW SCHOOL**

**THE HUGH WOODING LAW SCHOOL**

**AND**

**THE EUGENE DUPUCH LAW SCHOOL**

**ANNUAL ENTRANCE EXAMINATION**

**July 1, 2015**

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

(a) Briefly discuss the rule in *Hadley v. Baxendale (1854)*

(b) In March, Samuel sells his car to Harry for \$325,000. One of the terms of the contract is that for the first week of August, Samuel will have the use of the car for his daughter's wedding and honeymoon.

In June, Harry sells the car to Don.

Advise Samuel as to whether he is entitled to the use of the car.

2. Advise the parties in both scenarios (a) **and** (b):

(a) Suzette buys a ticket at the price of \$750 from her friend, Sonia, for a show featuring a performer called Thunder. Both Suzette and Sonia believed that Thunder is the popular entertainer in the US with that name who had gone platinum. In fact, Thunder, is a local imitation who sings out of tune and cannot dance. Suzette is upset and demands her money back from Sonia.

Advise Suzette.

(b) In June, Althea while out with some of her co-workers, Paula and Denise, jokingly challenged them to take part with her in a poster competition. She encouraged them saying that they will take part together and share the prize money. Paula and Denise joked with Althea about what they would all do with their share if they won the competition. After further coaxing from Althea, Paula and Denise finally agreed to enter the competition with Althea. Althea filled out the entry form and they all shared the cost of the entry fee.

Paula and Denise, later found out that in September, Althea has collected the sum of \$60,000 as the winning price in the competition and had not told them anything about it. When they approached Althea about sharing the money, she refused to talk to them saying only that she was the one who won the competition and that the money belonged to her.

Advise Paula and Denise.

### **LAW OF TORT**

3. Indicate whether there is any distinction between the tort of deceit and the tort of negligence and discuss the justification for any such distinction(s).
4. In August 2013, International Scientific Researchers Inc. (ISRI) began to undertake research into a variety of microbes which affected animals.

Their lab was located in a major farming district. At first, the residents, including farmers and two veterinary surgeons, and other professionals protested vociferously and demanded the removal of the lab on the ground that they feared harm from the escape of deadly viruses.

To quiet the community, the Minister of Agriculture, the Minister of Environment and the Minister of Health issued a joint press release to the effect that the activities of the ISRI did not pose any immediate threat to either the human or animal population, and that the work of the ISRI would be carried out according to international best practices.

In December 2014, a specially equipped van containing packaged containers with viruses was stolen from the compound of the ISRI. The packages were thrown into a river from which water was taken for irrigation and for animal and human consumption. The normal water treatment process was incapable of dealing with the viruses.

Several farmers lost livestock; about fifty persons became seriously ill, while others had minor intestinal problems, and land irrigated with the water is now contaminated.

The Government has declared the community a disaster area and has ordered the relocation of the people to a nearby community where many are now living in shelters. The community has become a ghost community.

The two supermarkets, the banks and other business places which served this community have closed. The owners are complaining that they have suffered multi-million dollar losses. Many in the shelter are now unemployed.

Advise International Scientific Researchers Inc. on liability.

### **LAW OF EQUITY**

5. "In my opinion, the time has now come for the validity of such a promise to be recognised. The logical consequence, no doubt is that a promise to accept a smaller sum in discharge of a larger sum, if acted upon, is binding notwithstanding the absence of consideration."

Explain the equitable doctrine to which Lord Denning was referring.

6. From 2003, Pancho managed the Noisy Peeps band under a ten-year contract of employment. As a result of his management, Noisy Peeps became a musical force. In December 2013, Pancho, on behalf of Noisy Peeps, concluded an agreement with Caro Resorts Ltd. for Noisy Peeps to appear every Wednesday night for a period of one year ending December 2014. It was also agreed that Noisy Peeps would **not** perform anywhere else on Wednesday nights for the duration of the agreement.

In June 2014, Noisy Peeps dismissed Pancho and indicated to Caro Resorts Ltd. that they did not intend to honour the agreement any further as they wished to be able to perform wherever they chose on Wednesday nights.

Pancho wants his job back. Caro Resorts Ltd. is anxious to prevent Noisy Peeps from breaking the contract. Pancho and Caro Resorts Ltd. are threatening to take legal action against Noisy Peeps.

Advise Noisy Peeps.

### **CRIMINAL LAW**

7. Using decided cases explain the following:
- a. transferred malice;
  - b. provocation;
  - c. insanity; and,
  - d. attempt.

8. Michael and Aaron had been drinking heavily at the local bar. Upon leaving the bar, they got into a heated argument. Michael swung a punch at Aaron but he missed. Aaron in attempting to avoid being struck by Michael slipped, fell and hit his head on the sidewalk. The blow to the head caused a severe wound which caused Aaron to become unconscious. Michael thinking that Aaron had died fled the scene. Aaron regains consciousness about 30 minutes later and signalled for help from Jane, a pedestrian. Jane saw the amount of blood and briskly walked away from the scene. Aaron died at the scene.

Advise Michael and Jane on any criminal responsibility.

### **REAL PROPERTY**

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

- (a) Although the principal test to determine whether an occupant of premises is a lessee or not has been laid down [by Lord Templeman] in *Street v Mountford* as being the right to be in ~~the~~ exclusive possession+this test is not an absolute one.

Discuss.

- (b) In January, 2015, Lana orally agrees to allow Theresa to occupy her premises in June, 2015 at a monthly rental of \$10,000. It was agreed that Theresa would repair and refurbish the premises in the meantime. While these works were being carried out, Lana went to the premises and made suggestions to Theresa as to the colour of the paint she requires in the rooms and the kind of curtains to be used. Lana's suggestions were

accepted by Theresa. However, at the end of May, 2015 Lana told Theresa that she was no longer interested in giving her the premises.

How would you advise Theresa?

10. One year ago, Biggs bought a factory building with adjoining land from Tubby. Since then, however the following issues with respect to the purchase have occurred .

- (a) ABC Bank claims that it has a mortgage over the land sold by Tubby. This mortgage was granted three years ago but the mortgage payments ceased 6 months ago so the bank now wishes to enforce their security.
- (b) Brenda has produced a letter signed by both her and Tubby in which Tubby agreed to allow her goats to graze over the land.
- (c) Albert who owns adjoining land has produced an old deed which prevents any industrial activity from taking place on Biggs's land.
- (d) Oliver, another adjoining land owner, says that he and his ancestors have used a path across Biggs's land for the last 100 or more years and that he has evidence to prove this.

Advise Biggs on whether he is bound by any of these claims.

**END OF PAPER**