



# THE UNIVERSITY OF THE WEST INDIES

## EXAMINATIONS OF JULY/AUGUST 2002

CODE AND NAME OF COURSE: LA21A - LAW OF CONTRACT II

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.

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Answer THREE (3) questions, at least ONE (1) of which must be from Section B. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

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### SECTION A

1. "An actionable misrepresentation is an unambiguous false statement of fact which induces the other party to enter into the contract."

Critically examine this statement.

2. "[F]rustration occurs whenever the law recognizes that without default of either party a contractual obligation has become incapable of being performed because the circumstances in which performance is called for would render it a thing radically different from that which was undertaken by the contract . . ."

Comment on this statement.

3. "In cases of breach of contract, the aggrieved party is only entitled to recover such part of the loss actually resulting as was at the time of the contract reasonably foreseeable as likely to result from the breach."

Critically discuss the rules governing what is compensatable in cases of breach of contract.

P.T.O

SECTION B

4. Answer **BOTH** (a) **AND** (b)

- (a) Harper, a prominent attorney, leases a yacht from Image Associates Ltd. to take himself and twenty (20) of his friends on a cruise "down the islands" one weekend to celebrate his sixtieth birthday. Harper pays a deposit of \$5,000. Harper is eager to have his friends see the female mud-wrestling event which takes place down the islands every weekend and he tells this to the official at Image Associates Ltd. However, unknown to both of them, the mud-wrestling has previously been cancelled indefinitely by the organizers who have converted to Buddhism.

Advise Harper.

- (b) Johnson agrees to voluntary termination of his employment with Advanced Computers Inc. (ACI). The parties agree that Johnson would be given a golden handshake of \$500,000 and a gold watch for his past twenty (20) years of exemplary service. It is later discovered by ACI that Johnson had all along been stealing equipment from the company and selling it to customers at a reduced price. Johnson, on the other hand, discovers that the watch he has received is not in fact gold but merely gold-plated.

Advise the parties.

5. George agrees to buy Hal's pitbull for \$1,000, payable in four instalments. The Bad Dogs Act 1996, requires that all sellers and purchasers of a scheduled dog must have a license from the Ministry of Agriculture. A pitbull is a scheduled dog. Hal has the appropriate license but George, who is unaware of the legislation, does not. However, when asked by Hal if he "can legally buy this dog", George informs Hal that he can. After three of the instalments have been paid by George, Hal discovers that George does not have a license. Hal immediately informs the authorities of this fact. George, fearing that the dog might be taken away from him, asks his daughter, Inga, to keep the dog for him for a "couple of weeks."

However, the matter is never taken up by the authorities. Meanwhile Inga, having fallen in love with the dog, refuses to return it to her father, George.

Advise George.

P.T.O.

6. Answer **TWO (2)** of the following:

- (a) Norma agrees to sell to Oscar, a fruit vendor, twenty-five (25) ripe mangoes from the tree in her yard. It is agreed that delivery should be on October 15, one day before the three-day National Food Fair at which Oscar will be selling fruits. Norma has the mangoes picked on October 14 but does not deliver them until the last day of the Fair. Oscar realises that the mangoes are over ripe and unfit for consumption.

Advise Oscar.

- (b) An agreement exists between Pan Co. Ltd. (Pan) and Xqisit Ltd. (XQ), a small hotel, for Pan to deliver to XQ fifty (50) cases of bottled water per month for \$2,500, this sum to be payable in advance of the delivery. This contract has been ongoing for three (3) years but, over the last six (6) months, Pan has delivered the water late on no less than four (4) occasions. XQ writes a letter to Pan, advising Pan that in light of the recent late deliveries, payment will now be made by XQ in arrears, with a deduction of the cost of one case for each day by which delivery is delayed.

Advise Pan.

- (c) The senior partner of Roberts, Simpson Thorpe, the law firm where you are working as a summer intern, asks you to prepare a memorandum for him outlining the options available to the victim of an anticipatory breach.

Draft the memorandum.

**END OF QUESTION PAPER**