

THE UNIVERSITY OF BRITISH COLUMBIA
PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – APRIL 2020

LAW 468.002
Ethics and Professionalism

Greg DelBigio, Q.C.

EXAMSOFT PASSWORD:
EXAMSOFT RESUME CODE:

TOTAL MARKS: 100

WRITING TIME ALLOWED: 2 HOURS (including reading time)
PREPARATION TIME ALLOWED: 10 MINUTES

Preparation Time has been given to download/print/set up for your exam once the exam has been made available online through Canvas. This time cannot be used for writing exam answers. All exam answer uploads will be monitored to ensure that typing of answers only occurred for the allotted Writing Time.

This is an open book examination, meaning that you can refer to class notes, casebooks and other class readings. The use of library books is not permitted.

Any exam answers that raise suspicion of breaking any restrictions outlined on this cover page may be subject to being processed through academic integrity software.

If you think you have discovered an error or potential error in a question on this exam, please make a realistic assumption, set out that assumption clearly in writing for your professor, and continue answering the question.

*****PLEASE READ THE BELOW CONFIDENTIALITY REGULATIONS CAREFULLY*****

As this exam is being written off-campus and is unsupervised, any communication whatsoever (including but not limited to in person, telephone, e-mail, text, social media etc.) concerning the contents of this examination with anyone (other than your instructor or staff of the Allard School of Law) is strictly prohibited.

In the event any information comes to your attention regarding a breach of these regulations (by others, or inadvertently by you), please immediately contact Student Academic Services (studentservices@allard.ubc.ca) and make full disclosure.

A breach of these regulations may constitute student misconduct and you may be subject to penalty or discipline under UBC's Academic Misconduct policies.

What Do I Do If:

- **I cannot access the exam questions on Canvas**

If you experience technical difficulties accessing the exam questions on Canvas, email studentservices@allard.ubc.ca and the exam questions will be emailed to you. Please provide your phone number when emailing Student Services.

- **I'm experiencing technical difficulties DURING THE WRITING of the exam**

If you experience technical difficulties with Exemplify at the very beginning or during an exam, we encourage you to spend NO MORE THAN 5 MINUTES attempting to troubleshoot your technical difficulties with Exemplify by restarting your computer. You will NOT BE GIVEN ANY EXTRA TIME to complete the exam if you experience technical difficulties with Exemplify.

If your attempt to solve the technical problem is unsuccessful, or if you choose not to make such an attempt, you MUST immediately begin typing your exam answers in a word processing software (i.e., MS Word, Apple Pages). Only if your computer or word processing software is not working, should you begin hand-writing your exam using paper and pen.

When you have finished writing the exam, you must upload via Exemplify any exam answers that you were able to complete in Exemplify, if possible. See below for technical support contact information if you cannot upload your Exemplify file.

You must also upload to Canvas any exam answers that you completed in a word processing software or via hand-writing. Please convert your word processing software file into PDF format, or take a picture or scan of your handwritten pages putting them into one folder. Upload the answer file/folder into the "Exam Answer File Submission (Word Processor or Hand-written ONLY)" link in the Law Exams – April 2020 course on Canvas. Your answer file/folder should be named, and the coversheet of your answers should be titled with:

Your Exam Code, Course Number, Name of Course, and Instructor Name
i.e., **9999 LAW 100.001 Law of Exam Taking (Galileo)**

- **I'm experiencing technical difficulties EXITING and UPLOADING the exam**

If you experience any difficulty exiting and uploading your Exemplify exam answers, you must wait until the allocated time period specified on the coversheet of the exam has ended, then email Bernie Flinn, flinn@allard.ubc.ca, and he or another IT Support staff person will help you to upload your Exemplify exam file. Please provide your phone number when emailing Bernie.

If you had to type using word-processing software or hand-write some or all of your answers, and experience difficulties uploading your exam answer file/folder to Canvas, email your exam answer file/folder to studentservices@allard.ubc.ca.

- **I fall ill in the middle of an exam, or am otherwise interrupted such that I'm unable to continue writing my exam**

Please stop writing, note the time that you stopped, and email studentservices@allard.ubc.ca immediately to notify them and discuss options. Please provide your phone number when emailing Student Services.

PLEASE NOTE THE POINTS ALLOCATED TO EACH QUESTION AND USE YOUR TIME WELL.
QUESTION 1 IS 40% AND QUESTION 2 IS 60%.

PLEASE READ EACH QUESTION WITH CARE.

GOOD LUCK. IT WAS A PLEASURE TO DO THE COURSE WITH YOU.

QUESTION 1 (40 marks)

As you know, judges enjoy independence. As you also know, judges attend courses for ongoing education from time to time. This year a controversy arose because the government indicated that it was going to require that judges take education in a specific subject matter. Judges objected on the grounds that because of their independence, they cannot be required to do this although a judge might take the course, or any other course, if they choose.

Having regard to judicial independence and its purpose, and having regard to the important role that judges play in adjudicating disputes, and arriving at resolutions that reflect law and societal values, pick a position:

- (a) the government can require judges to take education in specified subject matters or,
- (b) it is inconsistent with and interferes with judicial independence to require judges to take education in specified subject matters.

One position is not better than another. There is no wrong choice in the position you choose.

Advance your position through principled reasoning.

QUESTION 2 (60 marks)

J is a young lawyer at a tech company. It is a company that was started by J's friend, Z, who had a vision.

The company has grown rapidly and J has enjoyed the ride. Her salary has increased, she has received stock options and she has come to enjoy house ownership, a good car, good restaurants and good vacations.

J's legal and business instincts are good but she is a generalist - she does not specialize in a particular area of law.

In the course of its business the company collects personal data from its clients. This is disclosed but it is buried deep in many densely worded pages of a disclosure statement. J is concerned that the disclosure is not as clear as it might be.

The company also sells some of this personal data to other companies. This is not disclosed. This is an important and significant source of revenue for the company.

J has grown uneasy. She is concerned that the company is acting in contravention of the law. However, she is not certain.

J confronted Z and told him about her concerns. He was dismissive and said she doesn't know what she is talking about. When she pressed her concerns Z became agitated and said: "What are you going to do J? Report me? Report us? You are as much to blame for this as anyone. You were at board meetings and you never raised this. What are you going to do? Blow this company up? Then where will you be? You might as well sell your car now. You also might as well get ready to be sued and go to jail."

J left the meeting. She knew she needed guidance. She went to an old family friend - a retired lawyer – and she told that retired lawyer everything. In this discussion she admitted that her friendship with Z and the enjoyment of her lifestyle possibly caused her to turn a blind eye to what she suspected were contraventions of the law. However, in her own defence, she said she couldn't be positive the law was being broken.

The next day J returned to work. She told Z that she told she had told everything to a friend. Z exploded. He fired J on the spot. He also reported J to the law society.

You are a lawyer. J has come to you for advice on the law society complaint. Identify the ethical issues which are potentially engaged and discuss the strengths/weaknesses of J's position in relation to those issues.

END OF EXAMINATION