

Write Your Exam Code Here: _____

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**THIS EXAMINATION CONSISTS OF 4 PAGES (INCLUDING THIS PAGE)
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**THE UNIVERSITY OF BRITISH COLUMBIA
PETER A ALLARD OF LAW**

FINAL EXAMINATION – DECEMBER 2019

**LAW 468.007 / 588.007
Ethics and Professionalism**

Chris Rusnak and Joel Morris

TOTAL MARKS: 100

**TIME ALLOWED: 2 HOURS
plus 15 minutes reading time**

- NOTE:
1. This is an open book examination.
 2. This examination consists of 10 questions totaling 100 marks.
 3. Answer all questions. 0 points will be awarded for blank responses.

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MARKS

- [10] 1. What is civility? After explaining the concept, provide three reasons why civility is important to the practice of law.
- [5] 2. What is “professional misconduct”? What is “conduct unbecoming”?
- [10] 3. When acting as an advocate, a lawyer has a duty to represent the client resolutely. But there are limits on that duty. What are those limits? In answering this question, please provide examples of situations where other duties limit a lawyer’s duty to their client.
- [15] 4. ABC Inc. approaches you to act for them in litigation against XYZ Ltd.

ABC Inc. and XYZ Ltd. are both manufacturers in the widget industry. ABC Inc. wants to sue XYZ Ltd. for inducing breach of contract with one of ABC Inc.’s suppliers, causing delays in production and significant losses.

You previously acted for XYZ Ltd. in wrongful dismissal litigation brought by a former XYZ Ltd. employee. In the course of that retainer, you obtained confidential information regarding XYZ Ltd.’s employment practices.

Can you act for ABC Inc.? Explain what you must consider in order to determine whether you can act for ABC Inc.
- [10] 5. Provide three circumstances in which you can disclose confidential client information.
- [5] 6. (a) Atticus Finch is representing his client, Tom Robinson, at trial. Tom tells Atticus he intends to lie under oath. What should Atticus do?

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MARKS

- [5] 6. (b) Atticus Finch is representing his client, Tom Robinson, at trial. Atticus calls Tom to give evidence. While under oath, Tom describes a different version of events regarding a critical issue in the case than he had told to Atticus during their meetings to prepare Tom's evidence. What should Atticus do?

- [15] 7. Martha Costello, QC is defending a criminal case before a jury.

The offence occurred at night in an area of the city with some street lighting. The main issue in the case is identification.

Ms. Costello is cross-examining the prosecution's eyewitness. Ms. Costello wants to establish that this witness cannot identify the accused as the perpetrator because it was too dark. She does not know for certain how many street lights in that block were working that night but her client has told her he thinks two of the street lights were broken.

- (a) Does Ms. Costello have to independently investigate how many street lights were working that night?
- (b) Can Ms. Costello put to the eyewitness that it was not possible to clearly see the perpetrator because it was night and two of the three street lights in that block were not working that night?
- (c) Ms. Costello puts the question to the eyewitness. The eyewitness responds by saying that no street lights were working. What should Ms. Costello do?
- (d) No other evidence is led regarding the street lights. Can Ms. Costello argue at the end of the case that the evidence shows no street lights were working?

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MARKS

- [15] 8. Opposing counsel on a real estate transaction (i.e., a purchase and sale of a property) writes you a letter. In that letter, they put you on the following undertakings:
- (a) your client will transfer funds to you by a specific date;
 - (b) you will provide funds to opposing counsel by a specific date; and
 - (c) you will obtain a court order regarding the transaction by a specific date.
 - (i) What is an undertaking?
 - (ii) What is the significance of an undertaking?
 - (iii) How should you respond to opposing counsel's letter? In answering this question, please address each of the above undertakings.
- [5] 9. John and Jane have a dispute over their ownership interest in Blackacre. They want to retain you to represent both of them to resolve the dispute. Can you represent John and Jane? Briefly explain your answer.
- [5] 10. Assume you are a senior lawyer. A young associate at your law firm tells you they are feeling a lot of anxiety which is making it difficult to focus on their work. What advice can you provide to this young associate?

END OF EXAMINATION