

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

FINAL EXAMINATION – DECEMBER 2020

LAW 468.006  
Ethics and Professionalism

Chris Rusnak and Joel Morris

**EXAM PASSWORD: k2awGP**  
RESUME CODE: ABB47D

**TOTAL MARKS: 100**

(8:50 AM PST) **PREPARATION TIME ALLOWED: 10 MINUTES**

(9:00 AM PST) **WRITING (INCLUSIVE OF READING) TIME ALLOWED: 2 HOURS**

**8:50-9:00 AM Preparation Time (Exam writing not permitted)** – This time is given to students to download/print your exam questions once the exam has been made available online on Canvas, to read the Exam Password on this exam coversheet, to enter the Exam Password for the exam in Exemplify, and to progress in Exemplify until you see the **STOP SIGN**, where you will **WAIT until 9:00 AM. DO NOT proceed past the STOP SIGN. DO NOT begin typing your exam answers in Exemplify until 9:00 AM!**

**9:00 AM Exam Writing Time** – At 9:00 AM, you may proceed past the **STOP SIGN** in Exemplify and begin typing your exam answers. Students are required to calculate and monitor their own time for writing exams. All exam answer uploads will be monitored to ensure that typing of answers only occurred during the allotted Exam Writing Time.

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This is an open book examination.

**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. Do not email your professor or anyone else about this while the exam is in progress.**

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**ACADEMIC INTEGRITY**

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. Students typing exam answers before or after the allocated exam writing time may receive a grade penalty.

## CONFIDENTIALITY REGULATIONS – READ 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 the Student Services 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](mailto: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.

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### What Do I Do If:

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

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- **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, you may attempt to solve your problem/reboot your computer **BY YOURSELF**. You are **STRONGLY** encouraged to spend **NO MORE THAN 5 minutes** attempting to do so. You will **NOT BE GIVEN ANY EXTRA TIME** to complete the exam. **If your attempt to solve the problem is unsuccessful**, or if you choose not to make such an attempt, you **MUST** immediately **begin hand-writing** your exam answers with pen on lined paper. **You may NOT type your exam answer in word-processing software.**

When you have finished writing the exam, you must upload the exam answers that you completed in Exemplify (if you are prompted for a Resume Code, it is on the coversheet of the exam questions). Email Bernie Flinn, [flinn@allard.ubc.ca](mailto:flinn@allard.ubc.ca), for help with this. Please provide your phone number in the email. Bernie or another IT Support staff person will then help you to upload any answers that you typed in Exemplify.

You must also upload to Canvas your hand-written exam answers into the "Exam Answer File Upload (Word Processor or Hand-written ONLY)" folder. Scan or take a picture of each page (.jpg) of your exam and put them into one folder to upload.

Your answer file 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](mailto: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 in the email.

If you have approved accommodations to type your answers using Word Processing Software, and experience difficulties uploading your exam answer file to Canvas, email your exam answer file to [studentservices@ubc.ca](mailto:studentservices@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**

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END OF COVER PAGES

**LAW 468.006**

This examination consists of 12 questions totaling 100 marks.

Answer all questions. 0 points will be awarded for blank responses.

**MARKS**

- 10**     **1.** Identify each of the Canons of Legal Ethics and provide a reason why each is important to the proper functioning of the legal profession.
- 5**       **2. a)** What is a self-regulating profession?
- 5**        **b)** In what circumstance will a self-regulating profession lose its ability to self-regulate? (Provide an example and explain the interest that must be protected by a self-regulated profession.)
- 3.** You are a criminal defence lawyer. Your client is charged with kidnapping. He has pleaded not guilty. He comes to your office one afternoon to discuss his defence.
- 5**        **a)** First, he tells you he has written down exactly how he committed the kidnapping in a letter addressed to you. He gives you the letter. What do you do with the letter? Explain the reason(s) for your decision.
- 5**        **b)** Second, he tells you he has information that could be used in cross-examination to suggest the main prosecution witness is a dishonest person. He wants you to use that information to undermine the credibility of the main prosecution witness, even though their evidence regarding the kidnapping is true. How do you explain your professional and ethical obligations?
- 5**       **4.** What is an “ethical wall”?
- 10**     **5.** You are a young lawyer who, after working at law firm ABC LLP, has decided to move on and take a position at the law firm, XY LLP. During your time at ABC LLP you prepared a number of memoranda for senior lawyers which address legal issues on various files. You wish to take the memoranda with you as you expect they will be helpful in your new position XY LLP. Can you take the memoranda with you? Explain the reasons for your decision.

- 15**    **6.** You are counsel in a jury trial. There are two important issues. First, lighting conditions (i.e., was it bright or dark) at the location and time of the events at issue. Second, the credibility of the parties.
- (a) In advance of trial you interview a witness, Dharam, who tells you that it was very dark in the location where, and at the time when, the events in issue took place. You call Dharam (who is not your client) as a witness at trial to give evidence. During Dharam's testimony, he says it was very bright at the location and time of the events at issue took place. What should you do? Explain your thinking. (5 marks)
- (b) During the cross-examination of your client at trial, your client gives false evidence. What are your professional and ethical obligations? (5 marks)
- (c) During closing submissions at the end of the trial, opposing counsel repeatedly tells the jury that he "believes" his client and "in his view" your client is not telling the truth. Is this appropriate? Why or why not? (5 marks)
- 5**    **7.** You have an hourly rate retainer. You are reviewing your draft account before sending it to your client for payment. What ethical obligations should you consider in respect of your fees?
- 5**    **8.** Please explain how Crown counsel's ethical obligations are unique from those of other counsel.
- 5**    **9.** What is the difference between the legal standard for the assessment of solicitor's negligence and the standard used by the Law Society to determine whether a lawyer is guilty of professional misconduct?
- 15**    **10.** You are counsel for a Seema who is purchasing a new home for \$1 million. The lawyer for the seller of the home, Ms. Jawana, sends you a letter, enclosing all the documents necessary to transfer title in the property to Seema (the documents need to be filed at the Land Title Office). Ms. Jawana's letter also puts you on the following undertakings:

- (a) Your client, Seema, must rent the house to the sellers for one year after the purchase.
- (b) You cannot file the documents at the Land Title Office until Ms. Jawana has confirmed receipt of \$1 million from Seema.
- i. What is an undertaking? ( 2 marks)
  - ii. Can you accept the undertaking identified in (a) above? Explain why or why not. (5 marks)
  - iii. Can you accept the undertaking identified in (b) above? Explain why or why not. (5 marks)
  - iv. How should you respond to Ms. Jawana's letter? (3 marks)
- 5**     **11.** Sally is a newly called lawyer. She is contacted by her first potential client, her cousin, Frank. Sally has no experience in personal injury. Frank's case is a slip and fall claim at a liquor store. Can Sally act for Frank? Should Sally act for Frank? Explain what you consider to be the relevant considerations.
- 5**     **12.** 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**