



**SCHOOL OF LAW**

COURSE NAME: **Legal Drafting**

COURSE NO.: **LA 304**

TIME ALLOWED: **Three (3) hours**

READING TIME: **Fifteen (15) minutes**

NO. OF PAGES: **Seven (7) including this one**

NO. OF QUESTIONS: **Six (6)**

NO. OF QUESTIONS TO ANSWER: **All (choices within Qs 1 & 2)**

MARKS PER QUESTION: **Q1 -- 10**  
**Q2 -- 6**  
**Q3 -- 5**  
**Q4 -- 7**  
**Q5 -- 2**  
**Q6 -- 20**

TOTAL MARKS: **Fifty (50)**

---

MATERIALS PERMITTED IN EXAMINATION ROOM:

**Pens, timepiece**

SPECIAL INSTRUCTIONS

---

**Please do not turn over any page until you are told to do so.**

**QUESTION 1.** For either **A** or **B**, redraft the provision into English suitable for your jurisdiction.

(value:10 marks)

**A.**

(from *Appellate Jurisdiction Act 1876 (UK) s.9*)

*Hearing and determination of appeals during dissolution of Parliament.*

If on the occasion of a dissolution of Parliament Her Majesty is graciously pleased to think that it would be expedient, with a view to prevent delay in the administration of justice, to provide for the hearing and determination of appeals during such dissolution, it shall be lawful for Her Majesty, by writing under her Sign Manual, to authorise the Lords of Appeal in the name of the House of Lords to hear and determine appeals during the dissolution of Parliament, and for that purpose to sit in the House of Lords at such times as may be thought expedient; and upon such authority as aforesaid being given by Her Majesty, the Lords of Appeal may, during such dissolution, hear and determine appeals and act in all matters in relation thereto in the same manner in all respects as if their sittings were a continuation of the sittings of the House of Lords, and may in the name of the House of Lords exercise the jurisdiction of the House of Lords accordingly.

**OR**

**B.**

(from *Public Health Act 1936 (UK) s.52*)

*Care of sanitary conveniences used in common.*

Where a sanitary convenience is used in common by the members of two or more families, the following provisions shall have effect: —

...  
if the convenience, or the approach thereto, is, for want of proper cleansing or attention, in such a condition as to be insanitary, such of the persons having the use thereof in common as are in default, or, in the absence of satisfactory proof as to which of them is in default, each of them, shall be liable to a fine not exceeding two pounds, and to a further fine not exceeding two pounds for each day on which the offence continues after conviction therefor.

**QUESTION 2.**

(value: 2 marks each; total 6 marks)

Identify an uncertainty or ambiguity in **three (3) only** of the following provisions, A to E, and suggest a revision of the text to reduce or eliminate it.

(Assume that references to officials are clear in context.)

- A. The Clerk shall direct the petitioner in writing to notify the Office of his complaint.
- B. (1) No staff member may use the satellite link for personal use.  
(2) For permission to use the satellite link, a staff member must:
  - (a) apply in writing to the Head of School; and
  - (b) if the intended use is unrelated to his duties, include in the application good reasons.
- C. Students using Library computers may access email accounts and surf the internet only with permission of the Chief Librarian.
- D. The Director may authorise a person with a permit to reside in the country to provide child care.
- E. Upon request by the Minister, a person who is intending to export kava products to persons outside Vanuatu shall declare their names to the Minister

**QUESTION 3.**

(value: 5 marks)

Your government has set you up as a one-person Commission for the Reform of Family Law. Your mandate is general – the improvement of family law – but the Minister wants you to decide one issue first.

Should the family law of your jurisdiction be *codified*, in the sense that one enactment will contain all the relevant rules relating specifically to family law, *replacing the common law*, so that no-one need refer to pre-codification case-law?

**QUESTION 4. Answer both A. and B.**

*(value: total 7 marks)*

**A.** Would there likely be problems in the interpretation or application of these provisions, if they were law in your jurisdiction?

*(value: 3 marks)*

**B.** How would you improve them to remove or reduce any such problems?

*(value: 4 marks)*

(from the *Dogs Act* (Fiji))

*Dog attacking person or animal on public road*

5. If any dog on any street, public road or public pathway or in any public place rushes at or attacks any person or any horse, sheep, cattle, pigs, poultry or other animal whereby any person is injured or endangered or any property is injured or endangered, the owner of such dog shall be guilty of an offence and liable on conviction to a fine not exceeding \$100.

*Keeping dog without licence*

10. Any person who keeps a dog more than 6 months old without holding a licence in respect of such dog shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50:

*Waiver of licence fee*

12. - (1) Subject to subsection (2), where the licensing officer for an area is satisfied that it is necessary for a person resident in that area to keep a dog and that payment of the prescribed fee would, by reason of the poverty of that person, cause him undue hardship, the officer shall make a report in writing to that effect to the Minister, who may, by notice in writing to that officer, direct that a dog licence and a registration label be issued to the person in respect of a male dog or a sterile bitch without payment of the prescribed fee.

(2) A person is not entitled to the issue of more than one concurrent licence in pursuance of this section.

**QUESTION 5.**

*(value: 2 marks)*

Provide the term or phrase with which you would translate the legal term "reasonable" into a language other than English of your jurisdiction, together with its literal meaning in English.

**QUESTION 6.**

*(value 20 marks)*

You are a lawyer. Today an 18-year-old man named Jo Dolore has walked in the office and presented you with this.

-----

**In the Supreme Court of Pacifica**

**STATEMENT OF CLAIM**

**Between**

**Ben Pifotista**

***Plaintiff***

**and**

**Jo Dolore**

***Defendant***

1. The plaintiff accidentally left his laptop computer lying on a bench in the Green Light kava bar, on Columbus Road, Port Liva, on the evening of 3 October 2007.
2. The plaintiff returned to the Green Light about 15 minutes later to retrieve the laptop. On approaching the bar on foot, he saw the defendant about 50 metres from the bar, on the road, carrying what appeared to be the laptop.
3. The plaintiff called to the defendant words to the effect of "Hey—that's my computer", and approached him. The defendant began to run away.
4. The plaintiff caught up to the defendant and explained how he, the plaintiff, had left the laptop in the bar. The defendant refused to return the laptop and, growing angry, struck the plaintiff with his fist in the face, then shoved him so that he, the plaintiff, fell to the ground.

5. Some customers emerging from the Green Light then approached the scene. The plaintiff explained to them what had happened. At this point the defendant threw the laptop onto the pavement and ran away.

6. As a result of the attempted theft, vandalism, and assault, the Plaintiff suffered special damages.

Particulars of the Plaintiff's injuries

1. Swelling and abrasion on the skin
2. Pain and suffering

Particulars of the plaintiff's losses

1. Pair of sunglasses destroyed
2. Laptop computer (Toshiba) destroyed
3. Data lost

Particulars of special damages

1.	Cost of treatment by doctor	20,000
2.	Cost of prescription painkiller drugs	10,000
3.	Cost of new sunglasses	52,000
4.	Cost of new Toshiba laptop computer	<u>200,000</u>
Total		282,000 vatu

The Plaintiff claims

1. General damages in the sum of 50,000 vatu (very important data)
2. Special damages in the sum of 292,000 vatu
3. Interest and Costs.

*Signed etc.*

-----

(Assume that 100 vatu is approx. half a Fijian dollar, or 80 cents Australian.)

You ask Jo what happened. This is what he tells you:

"I was drinking kava in the Green Light that night with my uncle. We did not see this man, Mr Ben, and I do not know him. Some time after dark when I went to get shells of kava I saw this machine, like that one [he points to your laptop], lying on the sitting-bench. I told my uncle about it. My uncle thought and said that if we show the machine to the Green Light owner he will steal it. My uncle then told me to take the machine to our cousin Jenny, who works for the police. She lives just down the road from the Green Light. This is what I did: I took the machine to the road to go to Jenny's.

"There was no-one on the road. Then I saw a man running toward me. It was this man, Mr Ben. He yelled at me in English. I was frightened and I ran toward my cousin's house. He caught me and grabbed me here [indicating collar of T-shirt], and I pushed him with one arm. He grabbed at the machine and I thought he would take it so I pushed him again and he fell. I was frightened.

"Then some white men came out of Green Light and came toward us. I thought they must be friends of this Mr Ben so I dropped the machine and ran to my cousin's house. I was afraid of what my uncle would say. When I got this paper [indicating Statement of Claim] from Mr Ben, my uncle that I should see you. That is all."

Upon you asking, Jo denies striking Pifotista, insisting that he shoved him only, and not very hard. Jo says Pifotista was wearing sunglasses but that he didn't notice whether they fell off. Jo has no idea whether the laptop was damaged or whether it was a Toshiba.

Draft a Statement of Defence for Jo Dolore, consistent with the general principles of pleading.

(You need not conform to the precise requirements of any jurisdiction: it is *Pacifica*!)