

**EXAM 6 – CANADA, FALL 2019**

6. (2 points)

The case *Fletcher v. Manitoba Public Insurance Corp.* reached the Supreme Court of Canada.

a. (1.5 points)

Identify three criteria for establishing a duty of care and briefly describe how each may be applied to this case.

b. (0.5 point)

Contrast the duty of care of private agents and brokers compared to employees of public insurers based on this case.

**CONTINUED ON NEXT PAGE**

## SAMPLE ANSWERS AND EXAMINER'S REPORT

<b>QUESTION 6</b>	
<b>TOTAL POINT VALUE: 2</b>	<b>LEARNING OBJECTIVE(S): A3</b>
<b>SAMPLE ANSWERS</b>	
<b>Part a: 1.5 points</b>	
<u>Sample</u> <ul style="list-style-type: none"><li>• Does reliance exist? Yes, since insured relies on MPIC to have maximum coverage</li><li>• Is reliance expected? Yes, since insured is not familiar with type of coverage</li><li>• Is reliance reasonable? Yes, MPIC ought to know</li></ul>	
<b>Part b: 0.5 point</b>	
<u>Sample</u> <p>Duty of care is owed by both but private agents owe a higher standard of care because there is a higher degree of personalization promised by the private business model.</p>	
<b>EXAMINER'S REPORT</b>	
Candidates were expected to demonstrate an understanding of the duty of care between clients and agents.	
<b>Part a</b>	
Candidates were expected to describe the existence of reliance, the expectation of reliance and reasonableness of the reliance to establish a duty of care.  A common error included: <ul style="list-style-type: none"><li>• Not answering the question by discussing a breach in the duty of care</li></ul>	
<b>Part b</b>	
Candidates were expected to contrast the duty of care of private and public agents.  Common errors included: <ul style="list-style-type: none"><li>• Discussing issues not related to their duty of care</li><li>• Stating that a public agent has a higher duty of care</li></ul>	