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NORMAN MANLEY LAW SCHOOL  
Council of Legal Education

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1987

CIVIL PROCEDURE & PRACTICE II  
(Tuesday, August 11, 1987)

Instructions to Students

- a) Time: 3½ hours
- b) Answer THREE questions from PART I and TWO questions from PART II.
- c) Questions selected from PART II must be answered on a separate sheet.
- d) In answering any question a student may reply by reference to the Law of any Commonwealth Caribbean Territory, but must state at the beginning of the answer the name of the relevant territory.
- e) It is unnecessary to transcribe the questions you attempt.

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P A R T I

QUESTION 1

John Jones aged 15 was walking along Jupiter Road with his uncle Tom Whyte, with whom he has lived in the city for the past 7 years, his parents being in the country. Two vehicles collided and mounted the pavement and John and his uncle were struck down. John ended up in hospital with his legs broken and severe lacerations to his back and his uncle was also hospitalised with head injuries.

Also admitted to the hospital was Joan Brown, the girl friend of the driver of one of the vehicles, who had been taking her back to work after lunch. She was suffering from shock and a badly cut arm.

Information has been obtained that the driver of No. 1 vehicle was Harry Reid employed to Rotex Limited to whom the car belongs. Reid has recently been transferred to Port-of-Spain by his firm. The young male driver of the other vehicle ran away after the collision but that vehicle was licensed in the name of Roy Scott who has a 16 year old son Hugh. Scott is very uncooperative.

The injured parties John Jones and Tom Whyte wish to start an action.

You are requested to:

- (i) advise briefly on the facts
  - (ii) state the material elements of a Writ of Summons
  - (iii) draft the endorsement.
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QUESTION 2

In what circumstances may: -

- (i) the same plaintiff join in one Writ different causes of action against the same defendant?
  - (ii) two or more plaintiffs join in one Writ different causes of action against the same defendant?
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QUESTION 3

On what grounds may a party to an action properly refuse to give discovery of a document in his possession which is relevant to matters in question in the action?

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QUESTION 4

What is meant by "Service out of Jurisdiction"? Discuss the circumstances of its applicability and the procedure to be adapted when "Service out of Jurisdiction" is required.

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QUESTION 5

- a) Explain the term Entry of Appearance/Acknowledgement of Service.
  - b) Boxer has been served with a Writ of Summons. He wishes to challenge the validity of the Writ.  
How should he proceed?
  - c) What is the effect of an Appearance Gratis?
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P A R T II

QUESTION 6

State what applications to the Court, under the Companies Act, should be made by the following:

- a) Originating Summons
  - b) Petition
  - c) Notice of Motion.
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QUESTION 7

Outline:

- (i) the rules governing legal proceedings by and against Partnerships;
  - (ii) The Company Winding-up Rules relating to proceedings in the Supreme Court/High Court.
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QUESTION 8

Give the procedural steps for any three (3) of the following:

- (a) Increase of Share Capital of a Company registered under the Companies Act
  - (b) Appointment of a Receiver of a Company registered under the Companies Act
  - (c) Admission of a new partner to a firm
  - (d) Formation of a Friendly Society.
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QUESTION 9

An instructing attorney of vast experience has sent you the following draft Document for your vetting, as he proposes to use paragraph 6 thereof as the endorsement on a Writ of Summons.

Correct and redraft the Document.

BETWEEN	MARK ANTHONY	PLAINTIFF
AND	CHARLES BOX )	
	and )	
	MARY JANE )	DEFENDANTS

1. The Plaintiff is one of 10 shareholders in a company known as Safex Ltd., the holder of 51% of the shares, Director , and one of the Promoters of the said Company.
2. The Defendants are shareholders, and the other Directors and Promoters of the said Company.
3. On the 10th day of March 1986, at the first Directors' meeting of the said Company, the Plaintiff was appointed Managing Director, the 1st Defendant Chairman of the said Board of Directors and the 2nd Defendant Secretary of the said Company.
4. On the 1st day of April, 1986 at a Directors' meeting of the said Company, because the Plaintiff had discovered that the 1st Defendant had sold property through a nominee to the said Company shortly after its incorporation, the Plaintiff and the 1st Defendant had a quarrel and the Plaintiff left the meeting; after the Plaintiff

left, resolutions were passed removing the Plaintiff as Managing Director and a signatory on the Bank Account of the said Company, and appointing the 1st Defendant in his place.

5. Since that date the Defendants have embarked on a course of conduct which is oppressive to the Plaintiff.

PARTICULARS

- (a) At Directors' meetings the Defendants completely ignored the Plaintiff.
  - (b) They have ceased giving the Plaintiff any money whatsoever out of the said Company, while they pay themselves salaries of \$20,000 per year.
  - (c) They have formed a new Company to which they have diverted several of the most lucrative contracts of the said Company.
6. The Plaintiff claims:-
- (i) That account be taken of all sums of money received by the Defendants or ought to have been received by them on behalf of the said Company, and order for payment of any amount found on the said account;
  - (ii) An injunction restraining the Defendants from continuing the said course of oppressive conduct;
  - (iii) Damages for wrongful dismissal.