

NORMAN MANLEY LAW SCHOOL
COUNCIL OF LEGAL EDUCATION

LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, 1989

CIVIL PROCEDURE AND PRACTICE II

(Tuesday, June 6, 1989)

Instructions to Students

- a) Time: 3½ hours
 - b) Answer THREE questions from PART A and TWO questions from PART B.
 - c) Questions selected from PART B 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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PART A

QUESTION 1

- (a) What is the purpose of a payment into court in an action?
 - (b) When is a defendant competent to plead that there has been a payment into court?
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QUESTION 2

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 the action?

QUESTION 3

- (a) Explain the term "Setting Down for Trial".
 - (b) Plaintiff B has failed to set down an action for trial within the stipulated time.
Defendant C in the action seeks your advice as to what he may do. Advise him.
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QUESTION 4

- (a) How is an objection raised to discovery on the ground that it would incriminate the party making discovery?
- (b) Is the claim of privilege against self-incrimination or discovery limited to natural persons?

- (c) What is the "dominant purpose" test?
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QUESTION 5

At the close of the plaintiff's case or at some other stage in a trial, the defendant may submit that there is no case for him to answer.

Discuss the procedures applicable where the judge is sitting alone and with a jury.

PART B

QUESTION 6

EITHER:

- (i) Draft the constitution of a local citizens' association;

OR

- (ii) Draft the Articles of Partnership for a firm of three engineers.
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QUESTION 7

Outline the procedural steps to achieve three of the following:

- (i) Declaration of dividends;
- (ii) Divestment of a government-owned company;

- (iii) Change of name of a company registered under the Companies Act;
 - (iv) Registering an association under the Companies Act;
 - (v) An order to wind-up a company by the Court pursuant to the Companies Act.
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QUESTION 8

The instructions from your client, Hazel Doe, are as follows:

Her husband, Mark Doe and herself, are the signatories of the Memorandum and Articles of Association of Marhaz Limited, a company registered under the Companies Act, for one share each; that they were both appointed the first directors of the company and subsequently he was appointed managing director and she the secretary; that he has been running the company as though it was his own and has recently ejected her from the matrimonial home, the property of the company, dismissed her as secretary and changed the company's bankers; that she has just discovered that he has drawn out substantial sums from the company's account and purchased an apartment in the name of himself and the newly appointed secretary, Monica Brown.

Draft the document(s) you deem necessary to commence legal proceedings on behalf of your client.

QUESTION 9

Outline the procedural requirements for making applications to the Court under the several sections of the Companies Act.
