

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1994

CIVIL PROCEDURE AND PRACTICE II

(Thursday, August 11, 1994)

Instructions to Students

- (a) Time 3 1/2 hours
- (b) Answer THREE questions from Part A and TWO from Part B.
- (c) Questions selected from Part B must be answered on a separate answer booklet.
- (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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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

PART AQUESTION 1

- (a) Alex and Bertie are plaintiffs against Colin in a suit claiming damages. Alex, who is a necessary party to Bertie's claim, wishes to withdraw from the suit without obtaining Bertie's consent.
- (b) Alex, although a co-plaintiff with Bertie, sues in a separate cause of action in the same suit against Colin and wishes to withdraw without Bertie's consent.

Advise Alex in the circumstances.

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QUESTION 2

James was injured in a motor vehicle accident by a car owned and driven by Moore. He sued Moore for damages. Moore paid an amount into court in satisfaction of the claim. James did not accept the amount paid into court within the required period, but shortly after the expiration of that period, he changed his mind and now wishes to accept the amount paid in with interest and costs.

Advise James with reference to the relevant Civil Procedure rules and decided cases.

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QUESTION 3

- (a) State the purpose of and procedure relating to interrogatories.
- (b) What is meant by "fishing interrogatories"? Illustrate by referring to cases.
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QUESTION 4

D, a defendant in a suit brought against him by P, pays \$20,000 into court in satisfaction of the claim. The fact of that "payment in" and the quantum has come to the attention of the trial judge.

Discuss the implications.

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QUESTION 5

Write notes on THREE of the Writs of Execution.

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PART BQUESTION 6

What are the various procedures to be used in making application to the Court under the Companies Act?

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QUESTION 7

Outline the procedural steps for any THREE of the following -

- (a) voluntary liquidation of a company registered under the Companies Act;
  - (b) expulsion of a member from a member's club;
  - (c) the formation of a club;
  - (d) transfer of 50% of the shares of a member of a company registered under the Companies Act;
  - (e) a private company going public.
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QUESTION 8

- (a) Outline the contents of a standard Combined Register in common use.
  - (b) Outline the procedure to be used in the winding up of a firm by the court and advise on the evidence required.
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**QUESTION 9**

Your client, Ingrid Jones, and her husband, Harry Jones, were signatories of the Memorandum and Articles of Association of Hargrid Ltd. for one share each. At the first directors' meeting, they were both elected directors and your client appointed secretary. No further shares were allotted. Harry has been running the company with the consent of your client since the incorporation of the company in 1979, but as the relationship between them has become strained over the past two years, he has completely excluded your client from the management of the company.

Your client explains that Harry has since been using the company's bank account as his personal account and has bought a motor car for his girl friend with the company's funds.

Draft the appropriate documents to take immediate legal action to protect your client's interest in the company.

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