

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1995

CIVIL PROCEDURE AND PRACTICE II

Friday, August 11, 1995

Instructions to Students

- (a) Time                    3½ 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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PART AQUESTION 1

State the purpose of and procedure on a Summons for Directions.

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QUESTION 2

A judgment creditor in an endeavour to recover his judgment debt of \$150,000, levied execution on all the goods and chattels of the judgment debtor.

The goods included a valuable piano and stereo musical set.

After the levy and before the payment over of the proceeds of sale, the bailiff/marshall, informed the judgment creditor that Musical Supplies have claimed payment to them of the proceeds of sale of the piano and stereo set which they claimed to be their property. The judgment creditor was also advised that the proceeds of sale of all the goods and chattels levied including the piano and stereo were insufficient to satisfy the judgment debt and costs.

Advise the judgment creditor -

- (i) how the matter is likely to proceed as regards the claim of Musical Supplies;
  - (ii) whether he may still be able to recover the amount of judgment debt and costs which remain unsatisfied.
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QUESTION 3

What is meant by "setting down"?

Outline the procedure for setting down in your territory.

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QUESTION 4

Usually the right to costs against a party arises only after an order for costs is made by the court.

Discuss THREE instances in which costs may be obtained without an order of the court.

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QUESTION 5

(a) Indicate the various modes by which an action may be determined or disposed of without a full trial and briefly describe the characteristics of each.

(b) On April 18, 1995, the plaintiff's case was called on for hearing. The plaintiff failed to appear and the trial judge dismissed the action with costs.

The plaintiff seeks your advice.

Advise him.

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PART B

QUESTION 6

Give the procedural rules which govern legal proceedings by and against unincorporated associations.

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QUESTION 7

Answer EITHER (a) OR (b)

- (a) Outline the contents of a standard form Combined Register.
  
  - (b) Outline the procedure to be used in the winding-up of a partnership by the court and advise on the evidence required.
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QUESTION 8

The instructions from your client, Magrey Cox, are as follows -

Her husband, Karl Cox, and herself, were the signatories to the Memorandum and Articles of Association of Markar Limited, a company registered under the Companies Act, for one share each; that they are 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 just discovered that he has withdrawn

substantial sums from the company's account and purchased an apartment in the name of himself and the newly appointed secretary, Ms. Jane Henry.

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

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QUESTION 9

Outline the procedural steps to achieve THREE of the following -

- (a) declaration of dividends;
  - (b) an order to wind-up a company by the court pursuant to the Companies Act;
  - (c) change of name of a company registered under the Companies Act;
  - (d) removal of director of a company registered under the Companies Act;
  - (e) expulsion of a member from a club.
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