

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1997

CIVIL PROCEDURE AND PRACTICE II

(Monday, August 11, 1997)

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 candidate 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 territory.**
- (e) It is unnecessary to transcribe the questions you attempt.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

PART A**QUESTION 1**

- (a) Indicate the various methods by which an action may be determined or disposed of without a full trial. Briefly describe the characteristics of each such method.
- (b) On April 18, 1997, Tom's case against Bill in the Supreme Court was called on for hearing. Neither Tom nor his attorney-at-law appeared and the trial judge dismissed the case with costs to Bill.

Tom seeks your advice.

Advise him.

QUESTION 2

- (a) What is a writ of fieri facias and what are the essential requirements that must be satisfied before such a writ is issued?
- (b) Outline the procedure for the issue of such a writ.
- (c) What, if any, are the limitations to the issue and execution of such a writ?
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QUESTION 3

On what grounds can a party to an action properly refuse to give discovery of a document in his possession and which is relevant to the questions in the action?

QUESTION 4

"The order on a Summons for Direction is a condition precedent to an action coming on for hearing in the High/Supreme Court."

Explain this statement with reference to decided cases.

QUESTION 5

In what circumstances and against whom may security for costs be ordered?

PART B**QUESTION 6**

Draft the constitution of a proprietary reading club run by Angus Brown.

QUESTION 7

Outline the procedural steps to achieve three of the following -

- (i) declaration of dividends;
 - (ii) the formation of a club;
 - (iii) change of name of a company registered under the Companies Act;
 - (iv) reduction of the share capital of a company registered 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, Ann Malcolm, are as follows -

Her husband, Henry Malcolm, and herself are the signatories of the Memorandum and Articles of Association of Annry Limited, a company registered under the Companies Act, for one share each; and subsequently he was appointed managing director and she the secretary; 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, Norma Jones.

Draft the main document you deem necessary to commence legal proceedings under the Companies Act on behalf of your client.

QUESTION 9

Outline the contents of the Annual Returns and Combined Register in common use by practitioners.
