

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL  
LEGAL EDUCATION CERTIFICATE  
SECOND YEAR SUPPLEMENTARY EXAMINATION, 1998

CIVIL PROCEDURE AND PRACTICE II

( Friday, August 14, 1998)

Instructions to Students

- (a) Time 3 ½ 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.

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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED

**PART A****QUESTION 1**

A payment into Court is simply an offer to dispose of a claim on terms.

- (i) Discuss.
  - (ii) Draft a Notice of Payment into Court.
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**QUESTION 2**

Write notes on -

- (a) fieri facias
  - (b) sequestration
  - (c) garnishee.
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**QUESTION 3**

- (a) Indicate the various modes by which an action may be determined or disposed of without a trial. Briefly describe the characteristic of each such mode.
- (b) On April 18, 1998, P's case was called up for trial. P, a litigant in person, failed to appear and his action was dismissed with costs. P now seeks your advice. Advise him.
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**QUESTION 4**

- (a) The "Anton Piller" Order is sometimes called "the Civil Search Warrant".

Discuss the above statement.

- (b) State -
- (i) the principles upon which courts are guided in dealing whether to grant an Anton Piller Order;
  - (ii) the limitations and safeguards which the courts observe;
  - (iii) the procedure applicable when applying for such an order.
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**QUESTION 5**

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

Explain the above statement with reference to decided cases.

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**PART B****QUESTION 6**

Outline the procedural steps of any **THREE** of the following -

- (a) increase of share capital of a company registered under the Companies Act;
  - (b) reduction of share capital of a company registered under the Companies Act;
  - (c) distribution of profits of a company registered under the Companies Act;
  - (d) admitting a new partner into a firm;
  - (e) having an unincorporated club registered under the Companies Act.
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**QUESTION 7**

Outline the contents of a Combined Register for a registered company.

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**QUESTION 8**

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 9**

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; they are both appointed the first directors of the company 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; she has 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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