

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR SUPPLEMENTARY EXAMINATIONS, 2004

CIVIL PROCEDURE AND PRACTICE II

(MONDAY, AUGUST 2, 2004)

Instructions to Students

- (a) Time: 3 ½ hours
- (b) Answer THREE questions from Part A and TWO from Part B.
- (c) Answer Part A and Part B on separate answer booklets.
- (c) 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 relevant territory.
- (d) It is unnecessary to transcribe the questions you attempt.
- (e) Answers should be written in ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

PART A

QUESTION 1

Is there a difference between a stay granted pending Judicial Review Proceedings and an Injunction? What are the conditions upon which either will be granted in the Judicial Review process and what purpose does each serve?

When should a stay be refused?

QUESTION 2

John sues Alvin for \$500,000 for breach of contract. Six weeks before trial Alvin makes Parts 35 and 36 offer to settle for \$450,000. The offer is rejected by John and the matter goes to trial.

At trial, John succeeds and is awarded \$400,000. You are the attorney-at-law for Alvin at the trial. The Court has invited you to address it on the matter of costs. Make your submissions.

QUESTION 3

Explain the following:

- (a) "The Claimant's costs in the cause"
 - (b) "The Claimant's costs in any event"
 - (c) "Costs thrown away"
 - (d) "Costs reserved."
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QUESTION 4

"Care must be taken by parties to litigation in the preparation of their lists of documents and no less care must be taken in offering inspection of documents disclosed. Ordinarily in my judgment a party to litigation who seeks a particular document referred to in the other side's list without privilege been claimed and is subsequently permitted inspection of that document is fully entitled to assume that any privilege which might otherwise have been claimed for it has been waived" - Slade L J in Guinness Peat Properties Ltd. v Fitzroy Robinson Partnership [1987] 1 W L R 1027 at 1044.

Discuss the above quotation in relation to privilege in the process of disclosure/discovery.

QUESTION 5

On what basis, identifying the relevant sources, do courts in your country assume jurisdiction to entertain applications in respect of Search/Anton Pillar Orders?

PART B

QUESTION 6

Set out the contents of a constitution of a sports club.

QUESTION 7

Outline the procedural steps to effect **THREE** of the following –

- a) Raising capital for a company registered under the Companies Act
 - b) The redemption of Preference Shares
 - c) The issuance of bonus shares
 - d) The dissolution of a partnership
 - e) The reduction of a company's share capital/stated capital
 - f) The expulsion of a member from a club.
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QUESTION 8

What are the consequences of a Winding Up Order against a company registered under the Companies Act?

QUESTION 9

Ezee Limited is a company which operates a small variety store. John and Mary are the only shareholders and directors. The company now has liabilities far in excess of assets. They have decided to wind up the company and seek your advice on how to proceed.

Advise them.
