

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR EXAMINATIONS, 1996

CIVIL PROCEDURE AND PRACTICE II

(Tuesday, May 21, 1996)

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.**
- (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 territory.**
- (d) 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) Outline the procedure for discovery of documents.

- (b) A.B. Limited has been defrauded by clients of Sharpers Limited and seeks by a writ to trace the money defrauded into the clients' accounts. At the time of the issue of the writ A.B. Limited applies for an order against Sharpers Limited for immediate discovery of the accounts and correspondence with the clients relating to the accounts from the date of the alleged fraud.

Advise A.B. Limited.

QUESTION 2

You are representing the defendant in a case in court. At the end of the plaintiff's case you wish to submit that the defendant has no case to answer.

- (a) Set out the procedure which is to be followed in making the submission.

 - (b) State the consequences should your submission be upheld or refused.
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QUESTION 3

State the cases in which it is appropriate to use an Originating Summons and describe the procedure in such cases.

QUESTION 4

State, and briefly comment on, the pre-requisites for the granting of Mareva Injunctions.

QUESTION 5

Write notes on -

- (a) Fieri Facias;
 - (b) Attachment;
 - (c) Sequestration;
 - (d) Garnishee.
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PART B

QUESTION 6

Do **ONE** of the following -

- (a) draft a constitution for a Cricket Club or
 - (b) draft the Articles of Partnership for an architectural firm; or
 - (c) state the Rules of the Supreme Court governing legal proceedings by and against unincorporated associations.
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QUESTION 7

State the procedural steps required to effect any **THREE** of the following -

- (a) the sale of 400,000 of 1,000,000 shares held by Mr. John Jones in Spartex Ltd., a company registered under the Companies Act;
 - (b) paying off the holders of \$300,000 shares in Spartex Ltd;
 - (c) changing the name of Spartex Ltd. to Bugle Holdings Ltd;
 - (d) to get an order of the Supreme Court to wind-up Bugle Holdings Ltd.
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QUESTION 8

Mr. Jones, the attorney-at-law for K.G. Edwards & Sons Ltd., a company registered under the Companies Act, advises you that the company's 1995 financial statements disclose the following figures, inter alia:

(a)	Loss on Profit/Loss Account	\$12,000,000
(b)	Capital Reserve	\$ 1,000,000
(c)	Unappropriated Profits	\$ 700,000
(d)	Book value of land at Bay Beach	\$ 700,000

He further states that the company has a valuation of the land for \$2,000,00 and that the prospect of high profits for 1996 is very good. The company proposes to spend \$3,000,000 on the expansion of its plant without borrowing monies at the prevailing high interest rates and at the same time appease its minority shareholders who are indignant that they have never had any returns on their investments in the company and are likely to be uncontrollable.

Advise Mr. Jones on the course to adopt to enable the company to achieve this proposal.

QUESTION 9

Outline the provisions governing the procedure for the making of applications to the High/Supreme Court under the Companies Act.
