

**INDEPENDENT EXAMINATIONS COMMITTEE**  
**GENERAL LEGAL COUNCIL**  
**PROFESSIONAL LAW PART I/ POST CALL COURSE**  
**EXAMINATION (MAIN)**  
**CIVIL PROCEDURE**  
**28 JUNE 2021**

Time Allowed: Three (3) hours

10:00 a.m. – 1:00 p.m.

**INSTRUCTIONS TO CANDIDATES**

1. Read the instructions very carefully before beginning your answers.
  2. Answer **ANY FOUR (4) QUESTIONS**.
  3. Credit will be given for legible handwriting, clarity of expression and orderly presentation of material.
  4. Do not write your name on the Answer booklet. Write only your seat or Index number.
  5. Adhere strictly to the instructions on the front cover of your Answer Booklet.
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**QUESTION 1**

- a. Briefly describe the procedure in an application for Letters of Administration after a Caveat is filed. **(5 marks)**
- b. What is Administration *pendente lite* under Order 66 R 58 of the High Court (Civil Procedure) Rules, CI 47? **(5 marks)**
- c. Mr Hughes of Accra died testate and probate to his last will was granted to the named Executor Mr Jimmy Cole on the 4<sup>th</sup> of February 2021. On the 5<sup>th</sup> of April 2021, Mr Ben Grant commenced a Probate Action against the Executor, Jimmy Cole in the High Court, Accra, seeking a declaration that

the will of Mr Hughes is invalid as it was not properly executed. Jimmy Cole failed to file a statement of defence in the action and so judgment in default of pleadings is entered against him by the High Court. Jimmy Cole is aggrieved and has come to engage you as a Lawyer. **What will you do for him and why? (5 marks)**

d. How is a Probate action commenced? What does the High Court (Civil Procedure) Rules, CI 47 require a plaintiff to do in a Probate action? **(5 marks)**

e. How can a named Executor of a Will be liable for Intermeddling? **(5 marks)**

## QUESTION 2

a. Mr. Brown filed a writ of summons on the 5<sup>th</sup> March 2021 against Mr. Tunde. On the 7<sup>th</sup> of March Mr Brown filed a Statement of Claim. He then arranged for a bailiff to serve Mr Tunde with the writ of summons and the Statement of Claim together on the 10<sup>th</sup> of March 2021. On the 25<sup>th</sup> of March 2021, Mr Brown conducted a search at the Registry of the Court and the result was that Mr Tunde had defaulted in filing Appearance in the action. Mr Brown then applies for judgment in default of Appearance and same was granted against Mr Tunde. An Entry of Judgment has been served on Mr Tunde, who then engages you as his Lawyer.

**What will you do for him and why? (5 marks)**

b. Mr Yartey a retired employee of Baker & Sons Ltd an investment company of No. 45 Hyde Lane, London has engaged you to commence an action against the company to recover his end of service benefits which is due but has not been paid. How would you proceed to ensure that a proper action is brought against the company? **(5 marks)**

c. When is a writ of summons deemed to have expired? **(5 marks)**

d. What does the High Court (Civil Procedure) Rules, CI 47 requires a defendant who has been served with a writ of summons filed in a wrong venue to do? **(5 marks)**

e. What does the High Court (Civil Procedure) Rules CI 47, require a Plaintiff who is acting by an order or on behalf of a person resident outside the jurisdiction to do when issuing a writ of summons? **(5 marks)**

### **QUESTION 3**

a. Describe the circumstances under which the High Court (Civil Procedure) Rules, CI 47 allows a Plaintiff to discontinue his action. **(5 marks)**

b. Mr Johnson brought an action against Mr Cosmos for declaration of title to a parcel of land situate at Airport Hills Accra. In the course of the proceedings Mr Cosmos died and Mr Johnson applied to substitute Mr Grant the nephew of Mr Cosmos as the defendant. The order of substitution has been served on Mr Grant who feels he is not the proper person to be substituted in the stead of Mr Cosmos. Mr Grant is aggrieved and has engaged you as Lawyer what will do for him and why? **(5 marks)**

c. Mr. Hope obtained judgment against Mr King for the recovery of GH¢ 170,000.00 in the High Court, Commercial Division, Accra. Whilst looking for properties of Mr King to attach in execution of the judgment, he was reliably informed that A&B Ltd has just paid an amount of GH¢300,000.00 into the account of Mr King with Kones Bank, Dansoman Branch, Accra. Mr. Hope has come to see you for assistance to enforce the judgment as a Lawyer. **Briefly describe the steps you will take to recover the judgment debt for Mr. Hope? (5 marks)**

d. What is a Writ of Possession? Under what circumstances would a Court grant a Writ of Possession? **(5 marks)**

e. Briefly describe Registrar's or Sheriff Interpleader **(5 marks)**

### **QUESTION 4**

a. How is a Will Proofed in Solemn Form? **(5 marks)**

b. Mr Stone filed a Notice of Claim in an execution proceedings in the Circuit Court, Accra which resulted in an interpleader action. The Circuit Court eventually dismissed Mr Stone's claim. Mr Stone is aggrieved and has engaged you to appeal against the decision of the Circuit Court.

**Where will you file the appeal and what steps will you take to ensure that the appeal is properly filed? (5 marks)**

c. What is the difference between a Judgment in default of pleadings and summary judgment? **(5 marks)**

d. What does the High Court (Civil Procedure) Rules, C I 47 require a defendant to do after entry of Conditional Appearance? **(5 marks)**

e. Mention three (3) orders that the High Court may make at the Application for Direction stage. **(5 marks)**

### **QUESTION 5**

a. Mr. John Bongo of No.7 Ridge Close, Accra initiated action against Mr. Bob Young of H/No. B45/7 Adabraka, Accra in the High Court, Accra for the recovery of possession of parcel of land located at the Dansoman, Accra. In the Statement of Claim, Mr. Bongo inadvertently did not plead the fact that the parcel of land was devised to him under the will of his uncle Mr. Dester Brown. Mr Bongo has now engaged you as his Lawyer.

**Draft the appropriate process that will enable Mr. Bongo to give evidence of the fact of the devise to him in the will of Mr. Dester Brown. (15 marks)**

b. George Short has obtained judgment to recover GHC200,000.00 against the Attorney- General being damages awarded to George Short for injuries sustained after being knocked down by a vehicle belonging to the Ministry of Trade. Briefly describe the steps you will take to enforce the judgment?

**(5 marks)**

c. What is Third Party Proceedings under Order 15 of High Court (Civil Procedure) Rules CI 47? How is it commenced? **(5 marks)**

## QUESTION 6

a. Briefly describe the procedure to be adopted by an Execution- Creditor from the time of attachment of immovable property by a writ of fi fa to the time of sale under the High Court (Civil Procedure) Rules, C I 47 and the Auction Sales Act, 1989, PNDC Law 230 **(5 marks)**

b. What is a writ of Possession? How is it different from a Writ of Delivery? **(5 marks)**

c. Mr. Owusu obtained judgment to recover possession of Plot No. 32, Mango Lane. Airport Hills, Accra against Mr. Konto on the 2<sup>nd</sup> of April 2018. On the 10<sup>th</sup> of May 2018, Mr. Owusu personally filed an Entry of Judgment and followed it up with an application for leave to issue a Writ of Possession, which was granted by the Court on the 19<sup>th</sup> of May 2018. A Writ of Possession was thus formerly issued and sealed on the 25<sup>th</sup> May 2018 for the execution of the judgment of 2<sup>nd</sup> April 2018. Unfortunately, Mr Owusu was taken ill and has to travel outside the jurisdiction on the 25<sup>th</sup> May 2018 and only returned on 10<sup>TH</sup> October 2019. On his return Mr Owusu executed the Writ of Possession issued on the 25<sup>th</sup> May 2018 against Mr Konto, who is aggrieved.

Mr Konto has engaged you as **Lawyer what will you do for him and why?** **(5 marks)**

d. What is an appeal? How is it commenced? **(5 marks)**

e. How may one commence a Parliamentary election dispute in Ghana?

**(5 marks)**