

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL  
U.W.I. MONA, KINGSTON, 7 JAMAICA

**COUNCIL OF LEGAL EDUCATION**

**NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE**

**SECOND YEAR EXAMINATIONS, 1998**

**LAW OF SUCCESSION**

**(Friday, May 29, 1998)**

**Instructions to Students:**

- (a) Time: 3½ hours
- (b) Answer FIVE questions
- (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.

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**PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.**

**QUESTION 1**

Audrey Jones, blind since birth, is unable to write due to severe arthritis in her hands. She dictates her will to her sixteen year-old niece Cheryl Godfrey who wrote it. At Audrey's request Cheryl signed the 3-page will at the top of the first page for Audrey using her (Cheryl's) name. The next day Audrey asked her friends Marcia and Michael to witness the will. Marcia signed at the top of the second page and Michael at the end of the third page which contains gifts.

Carlos, one of the beneficiaries under the will, saw it lying on a table and signed it at the bottom of the first page "to make it stronger". Before he had signed the will he had accidentally torn the document where Cheryl had signed.

The will is not dated and there is no attestation clause.

Advise Cheryl, who is the principal beneficiary under the will, on the several issues.

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**QUESTION 2**

Jerome died leaving an estate valued at \$10,750,000. B. T. Lyn, his attorney-at-law, advised the beneficiaries under the will that Jerome left the following debts -

- (a) \$40,000 owing to his "beautician";
- (b) \$125,000 owing to his chef;
- (c) \$560,000 owing to his wife Doreen which sum he had borrowed to promote a dancehall concert;
- (d) \$1,750,000 awarded to Fred by the Supreme Court;

- (e) \$8,500,000 owing to the WellSafe Building Society secured by a mortgage on a cottage owned by Jerome in an exclusive resort area;
- (f) \$250,000 being outstanding taxes, and
- (g) \$15,000 owing to two of his employees for wages.

B. T. Lyn is asked to advise the beneficiaries as to how the creditors may proceed against the estate, and as to the payment of the debts and the distribution of the assets.

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### QUESTION 3

Georgia Irving, a famous actress, disappeared after the cruise liner (the "Gigantic") on which she was travelling collided with a reef and sank on November 24, 1990. Her body was never recovered. She left a will naming her only children Donna and Monique (both adults) as executrices. The entire estate was left to the children equally.

The children wish to obtain a grant of representation to wind up Georgia's estate.

- (i) Draft the Affidavit in support of the preliminary application which is necessary before they can apply for the grant,
  - (ii) Assuming that the application is successful, list the documents to be filed in order to obtain the grant of representation.
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**QUESTION 4**

Devon died on December 12, 1997, leaving personal estate of \$5,000,000 including chattels valued at \$2,000,000 used mainly in his business. He also left real estate valued at \$20,000,000.

He left a will dated September 11, 1982, under which his ex-wife Venus and three adult sons, Seymour, Junior, and Chad, are the sole beneficiaries. He was divorced in January, 1992 and promptly began living with Carlene, a spinster, to whom he was never married. The common law union bore him two daughters, Jonique and Dawnique. At Devon's death, Carlene was seven months pregnant with their last daughter, Tanique.

There is no residuary clause in the will resulting in a partial intestacy. The estate to be administered on intestacy is valued at \$6,000,000.

Carlene wishes to benefit as much as possible from the estate for herself and her children.

Advise Carlene of her, and her children's, rights and the likely distribution of the estate.

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**QUESTION 5**

In May, 1990 Selma Jones executes a home-made Will appointing Lex Lawson as her executor and containing the following dispositive clauses -

- (a) to my nephew, Paul, my leasehold premises at Pirate's Cove;
- (b) to my dear Sweetie-pie, my house at Mayfield Road, St. Clair Gardens;

- (c) to the St. Joseph's Home for Orphans the sum of \$10,000 ;
- (d) to my daughter Sheila and nephew, Raymond, my lands at Eastwards as joint tenants and;
- (e) to my daughter, Sheila, all my money of which I stand possessed,

At the date of Jones's death on April 22, 1998, the following facts are revealed -

- (i) that the lease of Pirate's Cove expired in 1995 and Jones acquired the fee simple that same year;
- (ii) that Jones has two nephews called Paul;
- (iii) that Jones, who often referred to her niece Rita as Sweetie-pie owned two houses at Mayfield Road. However, at the date when the Will was made she owned only one house;
- (iv) that there has never been a St. Joseph's Home for Orphans;
- (v) that Sheila died in 1996 but she is survived by her daughter, Roslyn, who was born out of wedlock to Sheila in 1992;
- (vi) that apart from cash in the bank, the testatrix owned stocks and shares which she often referred to as "my money".

Advise the testatrix's executor on the construction of the Will and the consequent distribution of Jones's estate.

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### QUESTION 6

By his Will dated May 12, 1990, Jerome Jackson of 15 Pinewood Gardens appoints Stephen Granderson of 16 Lexington Drive, Castle Cove as his sole executor.

At the date of Jackson's death on August 5, 1997, Grandson is residing in New York and is unable to return home to probate Jackson's Will. He, therefore, appoints Cyril Parks as his attorney for the purposes of obtaining the relevant grant of representation and administering the testator's estate on his behalf.

On November 5, 1997, Parks obtains the grant and begins to administer Jackson's estate. However, on December 14, 1997 Parks dies before he can complete the administration of Jackson's estate. On hearing of Parks's death Grandson decides to return home to complete the administration of the testator's estate.

- (i) Advise as to the practice and procedure to be adopted by Grandson in obtaining the relevant grant of representation of Jackson's estate.
  - (ii) List the documents relevant to the application for the grant, and,
  - (iii) Draft the Oath (or Affidavit in jurisdictions where an Oath is not used) to lead the grant.
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### QUESTION 7

Myroon Douglas comes to your Chambers and informs you that Felix Ballantyne has applied for a probate grant of her father's estate. She informs you that her father, Rex, was mentally incapable at the time he allegedly executed his Will. She instructs you to take the necessary steps to prevent the grant from being issued to Ballantyne with a view to challenging the validity of the Will by way of a probate action.

Write an opinion as to the various methods by which you may commence a probate action on behalf of Myroon Douglas.

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**QUESTION 8**

Anita Carrington, a widow and mother of an only child, Charmaine, dies leaving a Will appointing Greta Moses as her executrix and leaving her entire estate to Charmaine.

Moses advertises for creditors but is now refusing to apply for probate of Carrington's estate.

- (i) Advise Charmaine as to the steps to be taken in order to have Moses apply for the probate grant of her mother's estate, and,
  - (ii) Describe the contents of the documents used in support of the steps taken at (i) above.
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