

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND-YEAR SUPPLEMENTARY EXAMINATIONS, 2005

LAW OF SUCCESSION

(MONDAY, AUGUST 8, 2005)

Instructions to Students

- (a) Time: 3 ½ 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.
- (e) Answers should be written in ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Phillip migrated to Canada in 1980 and died in 2001 leaving property in Canada and in his native Caribbean Country. Probate has been granted in Canada to Michael and Desiree, the deceased's executors whose permanent residence is in Canada. The executors now wish to take steps to administer the property, valued at \$3,000,000, left by the testator in his native country.

Advise the executors as to the steps to be taken to accomplish the executors' objectives and list the documents to be prepared and filed.

QUESTION 2

Jennifer Jones died intestate in May 2001, leaving realty valued at \$6,000,000 and personalty valued at \$8,000,000, including personal chattels valued at \$2,000,000. She is survived by her "sweetie pie" John with whom she had shared a common-law relationship for eleven straight years up to when she died.

Jennifer, though separated from her husband Fred for twelve years, was not divorced until 1999. She left four adult children (Michael, Nikki, Stephen and Elvis) from her marriage to Fred and a ten-year old child Lucita fathered by John.

Advise John as to:

- (i) the distribution of the estate; and
- (ii) the type of grant which is relevant and the person(s) entitled to apply for the said grant.

QUESTION 3

Julia Longblood, a famous ballerina, died suddenly in February, 2000 while performing on stage. She left an estate valued at \$7,000,000 and a Will dated May 14, 1998, appointing David White and Jonathan Greene as the executors. Julia's children, Doreen and Nicole, are the beneficiaries under the Will and wish to have the estate wound up as quickly as possible.

- (i) State the practice and procedure necessary for the executors to obtain a grant.
 - (ii) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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QUESTION 4

Bartholomew Willis executed his Will on November 19, 1989. He died on March 15, 1999, leaving an estate valued at \$9,000,000. The sole executor under the Will is Augustus Grandison.

- (i) List the documents to be filed in support of the application for the grant of representation.
 - (ii) Detail the contents of the Oath (or other appropriate document corresponding to an Oath).
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QUESTION 5

On August 5, 2001, Brian Mattis, a widower, died leaving a Will made in 1993 in which his only child, Fay, born in 1983, was the sole beneficiary and sole executrix.

In 1995, Fay's guardians, Ronald and Agatha Davidson, had obtained a grant on Fay's behalf. Fay now wishes to obtain a grant in her deceased's father's estate in her own right.

- (i) List the documents to lead the grant.
- (ii) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.

QUESTION 6

- (a) In what circumstances, or at what stage of the proceedings, would it be advisable or prudent for a litigant to lodge a caveat/caution in a contentious probate matter.

Give reasons for your answer.

- (b) John Thomas has a Will dated May 25, 1999, in his possession allegedly made by Frederick Browne who died on August 19, 2001. Brian Blades, your client, contends that the Will is a forgery.

Advise Brian Blades as to what is to be done to determine the validity of the alleged Will.

QUESTION 7

Trevor died in July 1996, leaving real property valued at \$3,500,000 and personalty valued at \$1,900,000. A recession had severely affected his business and he left liabilities amounting to \$6,000,000 including a mortgage to Lotsa Money Limited of \$1,750,000 (secured on the said real property) and unsecured creditors.

Advise the unsecured creditors how the estate may be administered and what steps they have to take to recover their debts.

QUESTION 8

Mark Rogers, a widower and proprietor, was killed on October 31, 2002, during an argument at a club where he had been playing cards with his friends Stephen Thomas and Donald Moore. Stephen, who had stabbed Mark for accusing him of cheating during the game, was subsequently convicted of Mark's murder. Stephen and Donald had been appointed executors under Mark's Will dated June 5, 2000.

Donald, who has advertised for creditors of the deceased to come forward and who has been paying the debts of the deceased, has now informed Margaret, Mark's daughter and the sole beneficiary under Mark's Will, that he has no intention of applying for probate of the Will.

The deceased's estate consists of several parcels of land, substantial bank accounts and two large insurance policies. Margaret wishes to have her father's Will probated as she was fully dependent on him and is in dire financial straits.

- (i) Advise Margaret as to what grant, if any, she can get and the steps she must take to ensure that this is done.
 - (ii) Detail the contents of the Oath (or other document corresponding to an Oath) to lead the grant.
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