

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 2018

PROBATE PRACTICE AND PROCEDURE

(AUGUST 00, 2018)

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.
- (e) Answers should be written in black or dark blue ink. Erasable pens are not allowed.

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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

### **QUESTION 1**

Carla Razor, blind since birth, is unable to read and write. She dictated her Will to her adult son, Raymond Blair, who wrote it at Carla's request. Raymond signed the three-page Will for Carla at the top of the first page, using his own name.

The next day, Carla asked her friends, Kenton and Alphanso, to witness the Will.

Kenton signed at the top of the second page and Alphanso at the end of the third page, which contains the legacies and devise.

Seaton, 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 Seaton signed the Will, he accidentally tore the document where Raymond had signed.

Advise Kayla, who is the principal beneficiary under the Will, on the several legal issues that arise.

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### **QUESTION 2**

Nicolette Benson made a one-page Will. She appoints her niece, Petra Weir, and cousin, Paulette Coleman, as Executors.

At Nicolette's request, Paulette was asked to sign the Will at the foot thereof on her behalf, as rheumatoid arthritis had resulted in her losing total mobility in her wrists and fingers. Paulette signed on behalf of Nicolette, and signed her name instead of "Nicolette Benson". She (Paulette), also signed again as attesting witness.

Under her Will, Nicolette devised her one-acre lot in Cooper's Ridge to her said niece, Petra, one of the attesting witnesses.

Petra and Paulette come to see you. They instruct you that there was an alteration made at line nine of the Will, after it was read over to Nicolette by Paulette. They further informed you that, in addition, line ten, which originally read:

*“To my niece, Nevene, the sum of \$500,000 and my Land Cruiser Motor Truck.”*

was altered by the insertion of the words, *“and to my nephew, Oliver, the sum of \$900,000”* after the words *“the sum of \$500,000”*, preceded by an asterisk.

The Will has no attestation clause.

Nicolette died in February 2017.

Advise the Executors, Petra and Paulette, on the several legal issues raised on these facts and on the admissibility of the Will to probate.

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### **QUESTION 3**

Ruthlin Bryan executed her Will on January 27, 2011, leaving her entire estate, valued at \$4,000,000, to her three adult children, Miranda James, Paul Best and Robert Gordon in equal shares. She died on October 31, 2013.

No executor was named in the four-page Will although it contained the following clause:

*“I want my very good friend, Catherine Richards, to handle my affairs in accordance with my wishes.”*

The Will is torn on the first and second pages, and there is a watermark in the body of the third page.

- (i) Advise the beneficiaries, Miranda, Paul and Robert, as to the type of grant to be issued and the person(s) to make the application.

- (ii) List the documents to be filed in support of the application for the grant of representation.
  - (iii) Detail the essential contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.
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#### **QUESTION 4**

Barrington Senior died intestate on December 19, 2017, after his boat capsized along the coast of Rockyville. He left a net estate, valued at \$9,000,000, including personalty and realty. Various items of the said personalty, with a total value of \$3,000,000, were used primarily by Barrington in his designing and tailoring business.

At the time of his death, Barrington was married to Marjorie, from whom he had been separated since February 2012, but they were not divorced. There are two adult children of the marriage, Melrose and Kelly.

After Barrington's separation from Marjorie, and right up to his death, he had cohabited with Kate Hamilton and Annmarie Brown, each of whom had a child for him in 2013. According to Kate and Annmarie, they were each in an established relationship with Barrington.

Marjorie insists that the estate belongs to her and the children of the marriage, and consults you for legal advice.

Advise Marjorie as to:

- (i) the distribution of the estate;
  - (ii) the type of grant of representation to be issued; and
  - (iii) the practice and procedure to wind up the estate.
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### **QUESTION 5**

Allan Briggs died in September 2016, leaving an estate valued at \$15,000,000, comprised of realty, monies in bank accounts and investments. Allan died intestate.

Allan is survived by Maxine, and their two adult children, Marsha and Denise. He and Maxine had cohabited for over 40 consecutive years, immediately preceding his death, but they were never married.

Maxine now wishes to take the necessary steps to administer Allan's estate.

- (i) Advise her as to the practice and procedure to wind up the estate.
  - (ii) Detail the essential contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.
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### **QUESTION 6**

Arlene Miller died on October 12, 2012, leaving a Will dated March 14, 2011.

Her entire estate, valued at \$11,000,000, was left to her adult daughter, Abigail North. No executor was appointed under the Will.

- (i) State the steps to be taken to obtain the relevant grant of representation.
  - (ii) List the documents to be prepared and filed in the court in support of the necessary application.
  - (iii) Detail the essential contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.
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## **QUESTION 7**

Nadia Wellington migrated to Namibia, a Commonwealth jurisdiction, in 2000, after being offered a position as a Senior Director in the Ministry of Gender Equality and Child Welfare. On January 12, 2014, she died, leaving property in Namibia and in your jurisdiction.

In May 2018, her executors, Samantha Armstrong and Gerald Wellington, who are domiciled in Namibia, obtained a grant of probate of Nadia's Will in Namibia.

The executors now wish to take the necessary steps to administer the assets in your jurisdiction, being realty valued at \$14,000,000.

- (i) Advise Samantha and Gerald as to the type of grant for which they may apply, and the steps to be taken to administer the assets in your jurisdiction.
- (ii) List the documents to be prepared and filed in support of the application for the grant of representation in the Supreme/High Court.
- (iii) Detail the essential contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.

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## **QUESTION 8**

By her Will dated September 16, 2004, Estella Rice appointed Hannah Brown and Terry Colder as the Executrixes of her Will.

On December 1, 2014, Estella died and left her entire estate, valued at \$17,000,000, to her husband, Blake.

Hannah is currently on a special assignment with the United Nations Development Programme in Cambodia.

She has indicated that she is in agreement with Terry proceeding with the administration of Estella's estate, so as not to cause any further delays.

Terry now wishes to take the necessary steps to administer the estate and comes to you for legal advice.

- (i) Advise Terry as to the practice and procedure to wind up the estate.
- (ii) Detail the essential contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.

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**END OF PAPER**