

**COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE  
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, OCTOBER 2020**

**PROBATE PRACTICE AND PROCEDURE**

**THURSDAY, OCTOBER 1, 2020**

**Instructions to Students**

- (a) Duration: **24 hours**
- (b) Students shall enter their Examination ID Number **only**, not their names, on the cover page, the Academic Integrity Statement and on every separate page of the examination script.
- (c) The examination should be answered on letter-sized (8.5 x 11) paper only.
- (d) The examination should be submitted in Arial font 12 line spacing 1.5.
- (e) Students should clearly indicate the names of any cases with the citation and legislative provision/s (section number and Act) on which they rely to support their arguments. Consider using italics and/or bold text to make references prominent. (For example, *Rylands v Fletcher* [1868] UK HL1; **s.69 Real Property Act**). Sufficient detail is required to allow the examiners to understand the source of law that is being cited.
- (f) Footnotes, endnotes and bibliography are not required.
- (g) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (h) In answering the question, a candidate may reply, in accordance with the law of a Commonwealth Caribbean territory zoned for this school, **but must state at the beginning of the answer the name of the relevant territory.**
- (i) Each Student **must** ensure that their Anonymous ID in TWEN is changed to their four digit Examination ID Number, prior to submitting their examination script.
- (j) The examination script, with the cover page and Academic Integrity Statement saved in **ONE PDF DOCUMENT**, must be submitted in **ELECTRONIC** format via the **Year II OCTOBER 2020 EXAMINATIONS, PROBATE PRACTICE AND PROCEDURE DROP BOX** on TWEN by

**Friday, October 2, 2020, NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).

- (k) To upload the examination script which has been saved as one pdf document which includes the cover page and Academic Integrity Statement, you must follow these steps:
- Go to ***www.lawschool.westlaw.com***.
  - Log in using your username and password credentials and select the **TWEN** button.
  - Click on the link for **“Assignments and Quizzes”** located on the left-hand side of the navigation screen.
  - Select the relevant examination and the examination drop box as follows:
    - Year II students with Examination ID numbers between 2100-2162 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year II - 2100-2162”**.
    - Year II students with Examination ID numbers between 2163-2232 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box B Year II - 2163-2232”**.
    - Year II students with Examination ID numbers between 2235-2311 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box C Year II - 2235-2311”**.

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**Answer A, B and C**

**A.** You are a junior associate in the law firm John Hope & Associates (“the Firm”). The senior partner asked for your opinion in relation to the following matters:

Annabelle Denver has retained the Firm stating that she is the sole executrix in the 2015 Will of Carla Holness, who died in 2019. She wishes to have the Will admitted to probate without further delay. On perusing the Will, you note the following:

- (i) In the eighth line, it reads, “I appoint my best friend Shirley Lawrence as executrix of this my last Will and testament.” The name “Shirley Lawrence” has been crossed out and the name “Annabelle Denver” substituted. There are no signatures or initials beside this change.

Annabelle’s instructions are that Mae Anderson and Dawn Archibald are the attesting witnesses and they were present, and saw when the change was made by the Testatrix, in her own handwriting, but did not sign or initial the change. The witnesses maintain that this change was made before anyone signed the Will.

- (ii) In the tenth line of the Will, the word beginning the sentence was completely obliterated and it is impossible to see with the naked eye, what was written there before, and the name “Emmanuel” substituted, followed by the following words “to whom a motor car is given”. This change was initialled by the Testatrix, but no initials of the attesting witnesses were present. The attesting witnesses maintained that they were unaware of this change.

The Will has no attestation clause.

Carla’s entire estate is valued at \$12,500,000, including realty of \$10,500,000. The liabilities of the estate total \$700,000.

- (i) Prepare the requested opinion for your managing partner, advising of the effect of each change identified in Carla’s Will. Give reasons for your opinion.
- (ii) Draft the principal Affidavit which has to be filed on an application for the grant of representation in Carla’s estate in the Supreme/High Court in order to address the change(s) to the Will.
- (iii) Draft the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in Carla’s estate.

- B.** On April 3, 2020, Sherida Barnes was returning home during the Covid–19 imposed curfew hours, of 8 pm to 6 am daily, when a trailer ran across the intersection of the road and collided with her motor vehicle. Sherida was pronounced dead at the accident scene. She (Sherida), died intestate, and left realty valued at \$15,000,000 and personalty valued at \$4,000,000, including personal chattels valued at \$1,000,000.

At the time of Sherida’s death, she had been married for 20 years to Michael Barnes but the couple had been separated since 2013, when Sherida left the matrimonial home. They had triplets who are now adults, Maxine, Beverley and Janet. Sherida also had a child from a previous relationship, prior to the marriage. Her name is Frankida.

**Required:**

- (i) Identify and explain the grant of representation to be issued in Sherida’s estate.
- (ii) Indicate the person(s) entitled to take the grant of representation in Sherida’s estate and why.
- (iii) Advise as to the distribution of Sherida’s estate.
- (iv) Detail the practice and procedure to wind up Sherida’s estate.
- (v) Draft the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in Sherida’s estate.

- C. By her Will dated August 3, 2012, Lisa Dixon appointed Marvin Browne and Heidi Samuels as the executors of her Will.

On May 1, 2013, Lisa died and left her entire estate, valued at \$17,000,000, to her three adult children, Clarissa Dixon, Cheryl Dixon and Paul Serge.

On January 6, 2014, Marvin obtained the relevant grant of representation in Lisa's estate, as one of the Executors of the Will, reserving power to Heidi who migrated to Canada in December 2012 along with her mother, Wilheima James.

On June 18, 2015, Marvin died without completing the administration of Lisa's estate. The unadministered estate totals \$10,000,000, comprising realty valued at \$8,000,000.

While in Canada, Heidi's mother, Wilheima, lost her battle with cancer, after a prolonged illness. Heidi yearned for her Caribbean "roots" and seized the opportunity to take a work assignment with the International Monetary Fund's office located in the jurisdiction and she returned in September 2019.

Prior to her return to the jurisdiction, Heidi, the sole executrix named in her mother's Will, had obtained a grant of probate in Wilheima's estate in Canada. Wilheima also had assets in your jurisdiction, being realty valued at \$25,000,000.

Heidi comes to you for legal advice as she now wishes to take the necessary steps to administer the remaining aspect of Lisa's estate, and administer Wilheima's assets in your jurisdiction.

- (i) Advise Heidi as to the type of grant for which she may apply in Lisa's estate, and why.
- (ii) Identify and discuss the contents of the documents to be filed in support of the application for the grant of representation in Lisa's estate.
- (iii) Advise as to the procedural steps to be undertaken to complete the winding up of Lisa's estate.
- (iv) Draft the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation to complete the administration of Lisa's estate.
- (v) Advise Heidi as to the steps to be taken to administer Wilheima's assets in your jurisdiction.
- (vi) Discuss and list the documents to be prepared and filed in the Supreme/High Court to administer Wilheima's assets.
- (vii) Draft the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in Wilheima's estate.

**Note:**

Your answer should not exceed **3500 words**.

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**END OF PAPER**