

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

**LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, JULY 2020**

PROBATE PRACTICE AND PROCEDURE

THURSDAY, JULY 2, 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 JULY 2020 EXAMINATIONS**,

PROBATE PRACTICE AND PROCEDURE DROP BOX on TWEN by Friday, July 3, 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 I 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 I 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 I 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”**.

Answer both (a) and (b)

(a) John Lucas is a resident of your jurisdiction. On November 16, 2019, John decided to make his Will. John was unable to read and write, and asked his lifelong friends, Justin Mena and Panton Ferguson to assist with the preparation and execution of his Will.

Panton is a resident of your jurisdiction.

Justin, who resides in the United Kingdom, was on vacation in your jurisdiction, at his vacation home located on the beautiful and breathtaking Blue Lagoon.

Justin and Panton went together to John’s home located in Basseridge. In the presence of Justin and Lizbeth (John’s daughter), John dictated his testamentary

wishes to Panton, which Panton recorded in his own handwriting, in ink, on a sheet of paper.

Panton read over the Will to John, who thereafter expressed his approval of the contents of the Will.

John then made an "X" at the end of the Will and both Justin and Panton added their signatures immediately below John's mark, as attesting witnesses.

John died of a heart attack on December 13, 2019.

John's estate is valued at \$54,000,000, comprising realty of \$40,000,000, personalty of \$14,000,000 and the liabilities of the estate total \$10,000,000.

Both Justin and Panton are also now deceased, arising from complications due to COVID-19.

Justin had migrated to the United Kingdom in the late 1960s, when he was very young, and was a coal miner by profession. Justin had married Dorothy and raised his family in the United Kingdom . Justin was wise enough to ensure that he became a naturalised citizen and thus, was not affected by the "Windrush" saga. He stayed connected to his Caribbean roots and acquired several assets in your jurisdiction.

Justin died intestate in the United Kingdom on February 13, 2020, leaving behind his wife Dorothy, and his three adult children. Among Justin's assets in your jurisdiction, he had a net estate worth \$36,000,000, comprising realty valued at \$30,000,000 and personalty valued at \$6,000,000. He also had liabilities totalling \$3,000,000 in your jurisdiction.

Dorothy has obtained the grant of representation in Justin's estate and is desirous of making the requisite application in your jurisdiction. She wishes to appoint an agent to act on her behalf, as due to her advanced age and the COVID-19 pandemic, she has no desire to travel at this time.

Panton died testate in your jurisdiction on March 28, 2020. Panton's executors are Carmen Stupart and Nathaniel Black, and his (Panton's) estate is valued at \$11,000,000, comprising both real and personal property, realty is valued at \$9,000,000. Estate liabilities total \$2,000,000.

Lizbeth, has retained you to obtain the grant of representation in John's estate. On examination of the Will, you observed the "X" mark of John, and that the Will has no attestation clause. On further perusal of the Will, it is noted that Lizbeth is the only person named in the residuary clause.

Required:

- (i) Advise Lizbeth as to the relevant grant of representation to be issued in John's estate.
 - (ii) Discuss the legal issue(s) relating to the admissibility of John's Will in order to obtain the relevant grant of representation, citing relevant laws and/or rules.
 - (iii) Advise of any Affidavit(s) that is/are required to be filed in the Supreme/High Court to address the issue(s) identified under John's Will, in making the application for the relevant grant of representation. Citing the relevant laws/rules, if any, in your answer.
 - (iv) Draft the Affidavit(s), if any, that are required to be filed in the Supreme/High Court to address the issue(s) identified under John's Will, in making the application for the relevant grant of representation.
 - (v) Draft the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in John's estate.
 - (vi) Advise Dorothy as to the steps to be taken to administer Justin's assets in your jurisdiction and include in your advice the documents to be prepared and filed in the Supreme/High Court and the reasons they are required.
 - (vii) Draft the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in Justin's estate.
 - (viii) Advise Carmen and Nathaniel as to the relevant grant of representation to be issued in Panton's estate and the practice and procedure to wind up the estate.
- (b)** Kevin Branson, a widower and father of two adult children, Daniella Branson and Kia Branson, executed his Last Will and Testament on April 14, 2014.

By his will, Kevin appoints his brother Wilfred Downer, as the sole executor.

Kevin's estate is worth \$10,000,000. The dispositions under Kevin's Will include as follows:

- *"\$250,000 to my sister Kourtney West absolutely.*
- *All the rest and residue of my estate of whatsoever kind and wheresoever located to my beloved children Daniella Branson and Kia Branson absolutely".*

On July 1, 2016, Kevin died from complications arising from kidney failure.

Since Kevin's passing, Wilfred has proceeded to collect rent from Kevin's tenants and has advertised for creditors of Kevin to come forward. However, Wilfred has to date, not made an application for the relevant grant of representation in Kevin's estate despite the several verbal and written requests made by Daniella and Kia for him to do so.

Daniella and Kia, are anxious to have Kevin's estate administered. Frustrated, Daniella and Kia attend your office seeking advice as to the procedures that can be taken to have Kevin's estate administered.

- (i) Outline the initial steps that need to be taken in the circumstances, by Daniella and Kia , describing the law and procedure.
- (ii) Draft the Affidavit in Support of the main document, to be issued from the Supreme/High Court.

END OF PAPER