

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR SUPPLEMENTARY EXAMINATIONS 2024

PROBATE PRACTICE AND PROCEDURE

(WEDNESDAY, AUGUST 7, 2024)

Instructions to Students

- (a) Time: **3½ hours**
- (b) Answer **ALL** questions.
- (c) In answering any 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.**
- (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**

Jason Falconer, a bachelor and architect, drafted his Will personally. Whilst alone at home on the evening of May 22, 2023, he signed the Will. Sannia Falconer and Zahra Falconer are beneficiaries under the Will and are also appointed executrices.

Jason took the Will to Architectural Consultancy where he worked and asked two of his co-workers, Bruce Cavalier and Olivia Curry, to witness his signature. Jason pointed to his signature at the end of the last page of the document in the presence of Bruce and Olivia.

Whilst Bruce was signing, Olivia, standing nearby at her desk, turned her back to answer the telephone. It was a telephone call from a client who had engaged the services of Architectural Consultancy to draw a building plan for her commercial complex. Olivia then left the room to the adjoining reprography room to retrieve the draft building plan for the commercial complex which she had sent to be printed. Olivia returned after Bruce had completed his signature.

Olivia started to sign the Will in the presence of Jason and Bruce, but before Olivia had finished signing, Bruce returned to his desk a few feet away to complete a draft building plan. Olivia completed her signature with only Jason being present.

The Will has no attestation clause.

Bruce and Jason shared a love for racing cars. Bruce is a beneficiary under Jason's Will of his Evolution VII motor vehicle.

Jason died on February 7, 2024. Justin Falconer, Jason's twin brother, is quite incensed, having learnt of the contents of Jason's Will, as no provision has been made for him and he was always treated as a dependant of Jason. Further, having learnt of the circumstances of the execution and attestation of the Will, Justin intends to challenge it.

The executrices under Jason's Will, Sannia and Zahra come to you for advice.

Advise Sannia and Zahra as to the issues that arise under Jason's Will, citing any relevant rules that require any document(s) that need to be filed.

## QUESTION 2

- (a) Dania Welch died on October 26, 2022, leaving a Will dated August 11, 2019, in which her entire estate was left to her husband, Alando Welch, and her only child Kayla Welch, an adult.

Both executors under the Will, Kirby Boyd and Annmarie Reid, predeceased Dania in 2021. Kirby died from a pulmonary embolism and Annmarie died from complications due to an ectopic pregnancy. There were no amendments made to Dania's Will to replace the named executors.

At the time of her death, Dania's assets comprised the following:

- realty valued at \$50,000,000, including an apartment valued at \$20,000,000 which she held as joint tenant with Alando; and
- personalty valued at \$5,000,000.

The liabilities of the estate total \$3,000,000.

Alando wishes to wind up Dania's estate.

Advise Alando as to the relevant grant of representation to be issued in Dania's estate, who can apply, and the practice and procedure to wind up the estate.

- (b) Howard Grey died intestate on February 24, 2024, from gunshot wounds he sustained during a robbery.

Howard's estate comprises:

- realty valued at \$25,000,000; and
- personalty valued at \$4,000,000, including personal chattels valued at \$1,000,000.

Estate liabilities total \$800,000.

At the time of his death, Howard had been married for 20 years to Mercedes Grey, but the couple had been separated since 2013, when Howard left the matrimonial home. Mercedes is still alive.

In 2014, Howard established a relationship with Francine Camper. After his death, his three adult children, Maxine, Beverley and Janet, products of the marriage with Mercedes, insist that the entire estate should be theirs. The relationship with Francine produced no children.

Bernadette Warmer is claiming that she shared a relationship with Howard, which has produced a daughter Ashli, born on December 25, 2023. She (Bernadette) is asserting that Ashli and herself have a 'stake' in Howard's estate. There is no indication that Howard had admitted that Ashli was his offspring.

Both Mercedes and Francine want their "deserving entitlement being the right surviving spouse".

You are a junior associate at Legal Solutions and Co. Your supervising partner, Vaswani Hurst, has passed the file to you for review.

Advise as to the person entitled to take the grant of representation and the distribution of the estate.

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### **QUESTION 3**

- (a) Hilda Temple, a widow, died testate on November 26, 2023, in your jurisdiction. She is survived by her two adult children, Bertram Temple and Lois Temple Grace, who are the named executors and beneficiaries of Hilda's entire estate.

Bertram, a thoracic surgeon, is stationed in Tanzania, where he serves in a medical mission under the auspices of the United Nations, serving communities located in the interior of the country. Lois, an architect, resides in your jurisdiction.

Lois has been making enquiries and eagerly wishes for the process to be undertaken to obtain the relevant grant of representation in her mother's estate. Bertram, Lois has confirmed, is unable to return to the jurisdiction to deal with the matters arising from his mother's estate, due to exigencies of his medical mission, and wishes for Lois to proceed.

Hilda's estate comprises:

- realty valued at \$45,000,000; and
- personalty valued at \$13,000,000

Estate liabilities total \$3,500,000.

Draft or detail the contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in Hilda's estate.

(b) Elias Paul died on March 21, 2022, leaving a Will dated July 24, 2017. Peter Bonner and Henry Blake are appointed executors under Elias' Will.

Elias' estate is worth \$175,000,000, comprising realty of \$100,000,000.

Since Elias' death, Peter renounced his executorship due to failing health.

Henry commenced his executorship and started managing the affairs of Elias' businesses, including collecting rental income from a bed and breakfast cottage, totalling \$3,000,000, and profit generated from Elias' Auto Parts and Accessories, totalling \$8,000,000.

The dispositions under the Will are as follows:

"I give and bequeath the sum of \$10,000,000 to Mary Beecher absolutely.

I give bequeath and devise the residue of my estate of whatsoever kind and wheresoever located to my wife, Martha Paul, and my son, Joseph Paul, in equal shares."

Over the past two years, Martha has been urging Henry, the remaining executor, to take steps to obtain the grant of probate in her husband's (Elias') estate. However, Henry has vehemently refused, indicating that he will apply for the grant of probate in his own time.

Martha is distressed, as she believes the income and profits of the business are being siphoned off by Henry, as he has to date provided no account of his executorship.

Martha attends your office seeking advice about the law and the procedures to be taken to have the estate administered.

Advise Martha.

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**END OF PAPER**