

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 2019

PROBATE PRACTICE AND PROCEDURE

(AUGUST 00, 2019)

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 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.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Sylvia Bryant, blind since birth, is unable to read and write. She dictated her Will to her adult daughter, Summer Dixon, who wrote it at Sylvia's request. Summer signed the three-page Will for Sylvia at the top of the first page, using her own name.

Also present were Sylvia's friends, Sheena and Rushaine Royston who both witnessed the Will.

Sheena, who is also named a beneficiary under the Will, signed at the top of the second page and Rushaine at the end of the third page, which contains the legacies and devises.

Raymond, Sylvia's only son, and 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".

The sole executor named under the Will, Raymond Blair, consults you regarding obtaining a grant of probate of Sylvia's Will.

Advise Raymond as to the validity of Sylvia's Will.

QUESTION 2

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

Nicolette asked Paulette to sign the Will, as rheumatoid arthritis had resulted in Nicolette losing total mobility in her wrists and fingers. Paulette signed on behalf of Nicolette, at the foot of the Will and signed the name "Nicolette Benson". Paulette then signed her own name as attesting witness.

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

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 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

Patrick Mattis 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 Patrick in his designing and tailoring business.

At the time of his death, Patrick 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 Patrick's separation from Marjorie, and right up to his death, he had been intimately involved with Dianna Russell and Peaches Squeeze; each had a child with him in 2013, namely Kelly and Rodger respectively. According to Dianna and Peaches, they were each cohabiting with Patrick up to the time of his death.

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.

QUESTION 5

Briggs Bailey died in September 2016, intestate, leaving an estate valued at \$8,500,000 comprised of realty, monies in bank accounts and investments.

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

Marsha and Denise now wish to take the necessary steps to administer Briggs's estate.

- (i) Advise as to who is entitled to apply for the requisite grant of representation.
 - (ii) The practice and procedure to wind up the estate.
 - (iii) Detail the 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 \$10,000,000, was left to her adult daughter, Abigail North. No executor was appointed under the Will.

- (i) Outline 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 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

Regina 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 Israel, who are domiciled in Namibia, obtained a grant of probate of Regina's Will in Namibia.

The executors now wish to take the necessary steps to administer the assets in your jurisdiction, being realty valued at \$10,000,000.

- (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 contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation.

QUESTION 8

By her Will dated September 16, 2004, Estella Rice appointed Gordon Hannah and Shaliese Robinson as the Executors of her Will.

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

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

Gordon had indicated that he is in agreement with Shaliese proceeding with the administration of Estella's estate, so as not to cause any further delays.

Shaliese obtained the grant of representation in Estella's estate, but died prior to winding up the entire estate. The unadministered estate comprises of a dwelling house valued at \$10,000,000.

Gordon now wishes to take the necessary steps to wind up the unadministered estate and comes to you for legal advice.

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

END OF PAPER