

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 2017

PROBATE PRACTICE AND PROCEDURE

(AUGUST 00, 2017)

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.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Roxanne Smith died in 2000 leaving a three-page Will signed by her at the end of the second page and by three witnesses at the top of the third page, above a number of dispositions.

Two of the witnesses (Guthrie and Jermaine), having been called by Roxanne to witness the Will, were not in the same room with Roxanne when she signed, but stood in a nearby corridor twelve feet away looking on through an open window.

Of several changes to the Will, only a few were initialled by the Testatrix and the witnesses. The initialled changes included gifts to Samantha and Bill.

Guthrie and Jermaine are brothers; Guthrie is illiterate and Jermaine is blind.

The Will, which is undated, is torn on the first page which contains gifts to the third witness, the Testatrix's son, Nicholas.

Advise the executors who wish to have the Will admitted to probate and the assets distributed.

QUESTION 2

Daffodil Abbott executed her Will on March 2, 1990. She died on September 11, 2002 leaving an estate valued at \$8 million. The sole executrix under the Will is Tatiana McIntosh.

- (i) Advise her as to the practice and procedure to wind up the estate.
- (ii) Draft the Oath (or other appropriate document corresponding to an Oath) to lead the grant of representation.

QUESTION 3

Jasmine Grey died intestate on August 3, 2015. She left realty valued at \$5 million and personalty valued at \$4 million, including personal chattels valued at \$1 million.

At the time of her death, she had been married for 20 years to Michael Grey, but the couple had been separated since 2011, with Jasmine leaving the matrimonial home.

In 2012, Jasmine established a common law relationship with Frank Campbell that was thriving at her death. After her death, her three adult children, Maxine, Beverley and Janet, products of the marriage with Michael, insist that the entire estate should be theirs. Both Michael and Frank want their “deserving entitlement being the right spouse”.

Advise as to:

- (i) the distribution of the estate;
 - (ii) the type of grant of representation to be issued; and
 - (iii) the person(s) entitled to take the grant of representation.
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QUESTION 4

Adam Cowell died in May 2015, leaving an estate valued at \$30 million, comprising motor vehicles and investments. He did not leave a Will.

Adam is survived by Jacqueline, his wife of 30 years, and their two adult children, Martin and Elizabeth.

Jacqueline now wishes to take the necessary steps to administer Adam’s estate.

- (i) Advise her as to the practice and procedure to wind up the estate.
 - (ii) Draft the Oath (or other document corresponding to an Oath) to lead the grant of representation.
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QUESTION 5

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 \$6 million, to her three adult children, Carla, Cheryl and Paul.

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, as she was residing abroad.

On December 5, 2014, Marvin died without completing the administration of Lisa's estate.

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

- (i) Advise Heidi as to the type of grant of representation for which she may apply.
 - (ii) List the documents to be filed in support of the application for the grant of representation.
 - (iii) Draft the Oath (or other appropriate document corresponding to an Oath) to lead the grant of representation.
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QUESTION 6

Phillip Crimarco, a businessman of Caribbean descent, had been living permanently in England for ten years. Most of his assets were in England, but he also owned a cottage, shares in a private company and maintained accounts at several institutions in your jurisdiction.

Phillip died in October 2013, leaving a Will dated July 16, 2007, which appointed Beverley Jones as his sole executrix. In September 2014, Beverley, who resides in England, was granted probate of Phillip's Will by the relevant court in that country.

Beverley now wants to take steps to obtain legal authorisation to administer the real and personal estate Phillip left in your jurisdiction.

Advise Beverley as to the steps to be taken to obtain authorisation from the Supreme /High Court, to administer the assets in your jurisdiction, listing the documents to be prepared and filed in the court.

QUESTION 7

You are a junior associate in the law firm, Don Hope & Associates. The senior partner asks for your opinion in relation to the following matter.

Annabell Girod has retained the law firm stating that she is the sole executrix in the 2008 Will of Carla Holness, who died in 2010. She wishes to have the Will admitted to probate without further delay. On perusing the Will, you note the following:

- (a) 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 ‘*Annabell Girod*’ substituted. There are no signatures or initials beside this change.

Annabell’s instructions are that June Anderson and Maud Arnold are the attesting witnesses. They were present and saw when the change was made, after execution, but did not sign or initial the change.

- (b) ‘*Sean*’ to whom a motor car is given in clause 5, is crossed out and the name ‘*Emmanuel*’ substituted. This change was not initialled by anyone although the witnesses maintain that it was made before anyone signed the Will.

Prepare the requested opinion for your managing partner, advising Annabell on the effect of each change to the Will. Give reasons for your opinion.

QUESTION 8

Heather Minott died on January 14, 2000, leaving a Will dated August 22, 1999. Her estate, valued at \$12 million, was left to her adult son, Douglas Minott. 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) Draft the Oath (or other document corresponding to an Oath) to lead the grant of representation.

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