

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

**LEGAL EDUCATION CERTIFICATE  
SECOND YEAR EXAMINATIONS, AUGUST, 2021**

**PROBATE PRACTICE AND PROCEDURE**

**THURSDAY, AUGUST 12, 2021**

**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 to be used.
- (g) Where word limits have been given, the actual word counts must be included at the end of your answer. Students who have exceeded the word limits will be penalised.
- (h) Students shall number the pages of their examination script as follows:  
Page 1 of 12, Page 2 of 12, etc.
- (i) 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.**

- (j) 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.
- (k) 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 MAY 2021 EXAMINATIONS, PROBATE PRACTICE AND PROCEDURE DROP BOX on TWEN** by **August 12, 2021 NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).
- (l) 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 2100-2177 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box A Year II - 2100-2177***”.
    - Year II students with Examination ID numbers between 2179-2252 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box B Year II - 2179-2252***”.
    - Year II students with Examination ID numbers between 2253-2326 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box C Year II - 2253-2326***”.

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Rachel Stanbury died on August 6, 2017, leaving a three-page Will dated April 19, 2015.

Rachel signed her name at the end of the second page of the Will, whilst her two attesting witnesses, Girvan Richards and Jack Beanstalk, subscribed their names as attesting witnesses at the top of the third page, above some of the clauses containing the dispositions and directions.

Girvan and Jack, having been asked by Rachel to witness her Will, were not in the same

room with her when she executed her Will. They stood in a nearby corridor, some six feet away, looking through an open window with an unobstructed view of Rachel signing her name.

A perusal of the Will reveals the following:

- (i) That on the first page of the Will, there is a disposition of a 2014 BMW to Jacqueline Richards, wife of attesting witness Girvan Richards.
- (ii) That on the first page of the Will there is a water mark and there are staple marks in the top left hand corner of the Will.
- (iii) That there are two amendments to the Will but only one amendment is initialled and dated April 19, 2015, by the testatrix and the two attesting witnesses.
- (iv) That the uninitialled amendment appears in the fourth paragraph of the Will, and relates to the devise of realty known as Pemberton Plains, St. John, to beneficiary, Avatar Bernie. The name Avatar Bernie has been crossed out and the name Carlos Bright substituted.
- (v) That the Will is undated and no executors were named in the Will.
- (vi) That Abiola Hutchinson and Sabrina Phillipots, who are sisters, are the residuary beneficiaries under Rachel's Will.

Abiola is desirous of seeking guidance regarding the validity of Rachel's Will and applying for the relevant grant of representation in Rachel's estate. However, Sabrina had indicated to Abiola, that she was constrained at the time due to severe health challenges which arose from a heart condition.

Regrettably, on April 6, 2020, prior to an application being made for a grant of representation in Rachel's estate, Sabrina died at the Mount Sinai Hospital, in the jurisdiction, whilst undergoing heart surgery. She died intestate leaving Eric Bonner, her life partner, with whom she had been cohabiting for over 15 years, immediately preceding her death.

Sabrina is also survived by her two children, Ziya aged 14 years, and Simon aged five years. Her estate comprised realty valued at \$8,000,000 and personalty valued at \$4,000,000 including personal chattels valued at \$1,000,000.

Dwayne Barrett, Sabrina's older brother, had died testate on January 2, 2021. Ziya is named co-executor under her uncle Dwayne's Will, dated May 16, 2020, along with his best friend and colleague William Berry (an adult).

The beneficiaries under Dwayne's estate have been requesting William to proceed to obtain the relevant grant of representation. Dwayne's estate is valued at \$20,000,000,

comprising realty of \$15,000,000, personalty of \$5,000,000, and liabilities of \$1,000,000. William wishes to make the relevant application for a grant of representation in Dwayne's estate.

## **PART A**

Abiola, who is concerned about the estate of her deceased siblings, seeks your advice:

1. On the several legal issues raised under Rachel's Will and the Will's admissibility to Probate. **(1000 words)**
2. Regarding the person(s) entitled to apply for the grant of representation in Sabrina's estate and its distribution. **(750 words)**
3. On the practice and procedure to wind up Sabrina's estate. **(750 words)**
4. You are also required to:
  - (a) Draft/Detail the contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in Rachel's estate.
  - (b) Draft/Detail the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in Dwayne's estate.

## **PART B**

Sheana Hylton migrated to Namibia in 2000, after being offered a position in its Ministry of Reconstruction and Development. On January 12, 2020, she died intestate, leaving property in Namibia and in your jurisdiction.

In March 2021, Kerry Kremlin, who is domiciled in Namibia, obtained a grant of administration of Sheana's estate in Namibia.

Kerry now wishes to take the necessary steps to administer the realty valued at \$14,000,000, left by the deceased in your jurisdiction. Estate liabilities in your jurisdiction total \$1,000,000. She (Kerry) wishes for an agent to be appointed to act on her behalf.

- (i) Advise Kerry as to the steps to be taken to administer the assets in your jurisdiction. **(750 words)**
- (ii) List the documents to be prepared and filed in the Supreme/High Court.
- (iii) Draft the Oath (or Petition and Oath in the case of Belize) to be filed in the Supreme/High Court.

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**END OF PAPER**