

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

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

PROBATE PRACTICE AND PROCEDURE

THURSDAY, MAY 6, 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) 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 MAY 2021 EXAMINATIONS**,

PROBATE PRACTICE AND PROCEDURE DROP BOX on TWEN by Friday May 7, 2021, 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 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”**.

Jessica Carter, journalist and widow, died intestate on February 26, 2020 in your jurisdiction. She is survived by two of her three adult children, Lia Carter and Belinda Carter. Her third child, Damani Wesly, predeceased Jessica on November 16, 2019. Damani, a bachelor and civil engineer, is survived by his two adult children, Miracle and Jason Wesly.

At the time of Jessica’s death, the assets and liabilities of her estate comprised the following:

- (i) Realty valued at \$35,000,000.
- (ii) Personalty valued at \$7,000,000 including personal chattels valued at \$3,000,000.
- (iii) Estate liabilities totalled \$1,000,000.

Lia and Belinda are desirous of making the relevant application for grant of representation in Jessica’s estate.

Damani's children, Miracle and Jason, have informed that their father, Damani, died leaving two Wills, one dated January 24, 2018, and the other dated September 30, 2018.

According to Miracle and Jason, their father Damani was a very private individual, and prided himself on protecting his personal affairs from intrusive individuals. As such, he prepared his own Wills.

Under Damani's Will dated January 24, 2018, Lia, his sister, was appointed Executrix. The directions were as follows:

- all his realty valued at \$16,000,000 to Jason.
- all his personal property to Miracle and Jason in equal shares, absolutely.

The Will did not contain a residuary clause.

In early September 2018, Damani was diagnosed with stage four leukaemia and his prognosis was not good.

It was highlighted by Miracle that as her father considered his transition, he informed her (Miracle) and Jason, that he would draft another Will that would be more equitable. Thus, on September 30, 2018, both Miracle and Jason were invited to Damani's home, where he drafted and executed another Will in the presence of two attesting witnesses, William Devereux and Alice Senior.

The directions under the September 30, 2018 Will were as follows:

- (i) Miracle and Andrew Coors, Accountant, were appointed Executors.
- (ii) All his realty valued at \$16,000,000, to Jason and Miracle, to be held as tenants-in-common, in equal shares.
- (iii) All his personal property to Jason, absolutely.
- (iv) The residue of his estate to be shared between Miracle and Jason in equal shares.

Damani's Will dated September 30, 2018, contains no express revocation clause.

Miracle has indicated that she wishes to proceed to obtain the relevant grant of representation in Damani's estate. Miracle had been in dialogue with Andrew, who was a naturalized citizen of Australia. However, Andrew was reluctant to proceed, as he has returned to Australia. He renounced his executorship and indicated he was not opposed to Miracle proceeding without him.

On February 6, 2021, Andrew died in Australia in a vehicular accident. Andrew had migrated to Australia in 2000 and was a professor at one of its prestigious universities.

Andrew died testate leaving behind his widow, Deborah, as sole executrix of his estate, and his two children, Amari and Austin. Among Andrew's assets, he had assets in the jurisdiction comprising realty valued at \$45,000,000; personalty valued at \$5,000,000. Andrew also had liabilities totalling \$250,000 in the jurisdiction.

Deborah has obtained the grant of representation in Andrew's estate and is desirous of making the requisite application in your jurisdiction. She, however, would like to appoint an agent to act on her behalf.

Required:

PART A

1. Advise as to:

- (i) The type of grant of representation to be issued in Jessica's estate.
- (ii) The person(s) entitled to take the grant of representation.
- (iii) The distribution of the estate.

(750 words)

2. Draft/Detail the contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in Jessica's estate.

3. Advise Miracle as to the validity of the January 24, 2018 and September 30, 2018 Wills of Damani. Cite authorities in your answer. **(750 words)**

4. Advise Miracle as to the documents required and the usual practice and procedure to wind up Damani's estate and distribute the assets. **(750 words)**

5. Advise Deborah as to the documents that would be required and the procedure that would have to be undertaken to administer Andrew's assets in your jurisdiction. **(500 words)**

6. Draft/Detail the contents of the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in Andrew's estate.

PART B

Bernard Howard, a successful businessman executed his Will on July 14, 2019. At that date, Bernard owned the following assets:

- (a) An upscale dwelling house;
- (b) A luxury yacht;
- (c) A substantial art collection;
- (d) A commercial complex comprising offices in the premier commercial district;
- (e) Shares in several private companies;
- (f) Four bank accounts;
- (g) A 2017 Toyota Prado motor vehicle; and
- (h) A 2018 Jaguar electric motor vehicle.

In his Will, Bernard disposed of his estate as follows:

- (i) The upscale dwelling house to his wife, Anna for her natural life and thereafter to his children, Ariel and Jax in equal shares, absolutely.
- (ii) The luxury yacht to his son, Jax, absolutely.

- (iii) The commercial property with offices to his two children, Ariel and Jax, absolutely, and
- (iv) The residue of his estate to his wife, Anna, absolutely.

In August 2020, the luxury yacht was destroyed when Hurricane Gilbert battered the Jurisdiction. Bernard died in November 2019 and is survived by his wife, Anna, and his daughter, Ariel.

Jax predeceased his father in June 2019 and his (Jax's) adult daughter, Emma, who survived Jax, died of a rare disease in October 2020. Emma was Jax's only child, and she had no children.

The Executors of Bernard's Will, Ricardo Blitz and Jacqueline Lockdown have obtained a Grant of Probate in his estate. They now seek your advice on the distribution of the gifts under Bernard's Will.

The debts of Bernard's estate have been liquidated and the assets forming part of his (Bernard) estate are as outlined above.

Advise Ricardo and Jacqueline as to the distribution of the gifts under Bernard's Will. **(750 words)**

Note:

Your answer to Parts A and B should not in total exceed **3500 WORDS not including the draft documents as requested.**

Footnotes, endnotes and bibliography are not to be used.

END OF PAPER