

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS 2023

PROBATE PRACTICE AND PROCEDURE

(MONDAY, MAY 1, 2023)

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.
- (f) Calculators may be used and are provided.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

In November 2019, Wade Baritone decided to make his Will. Baritone was unable to read and write, and asked two friends, Leon Wise and Pencil Precise, to assist with the preparation and execution of his Will.

Wise and Precise arrived together at Baritone's home. In Wise's presence, Baritone dictated to Precise his testamentary wishes, which Precise recorded in ink on a sheet of paper. Precise then read over the Will to Baritone, who thereafter expressed his approval.

Also present during the preparation and execution of Baritone's Will was his niece, Regina Fast. Baritone then made an "X" at the end of the Will in the joint presence of Wise and Precise.

Wise then proceeded to sign his name, in the presence of Baritone, below Baritone's "X". Precise's mobile phone rang, and she excused herself and went to an adjoining room to take the call, and returned after Wise had completed his signature.

Precise started to sign the Will in the presence of Baritone and Wise but, before she had completed signing, Wise had to leave, as his taxi had arrived to take him home. Precise completed her signature in Baritone's presence.

Fast, who is also a beneficiary under the Will, was asked by Baritone to sign her name below Wise and Precise's signatures. She complied with Baritone's request.

Baritone died on January 3, 2023, and his sister, Tindy Breaks, having learnt of the circumstances of the execution of the Will, intends to challenge it.

The Will has no attestation clause and is undated.

The sole executrix under the Will, Baritone's wife, Lena Baritone, comes to you for advice.

Advise Lena as to the admissibility of the Will to probate.

QUESTION 2

- (a) Ralph Menendes died intestate on November 19, 2020, in a vehicular accident on the Landoverly Highway in your jurisdiction. He left a net estate totalling \$30,000,000 including personalty and realty.

The breakdown of the assets under the net estate is as follows:

- Personalty totals \$10,000,000, including:
 - personal chattels of \$2,000,000; and
 - machinery and a delivery van, used primarily by Ralph in his agro-processing business, together valued at \$6,000,000.
- Realty totals \$20,000,000.

At the time of his death, Ralph was married to Jhaimia, from whom he had been separated since March 2014, but they were not divorced. There are two adult children of the marriage, Bernadette Menendes and Delroy Menendes.

After Ralph's separation from Jhaimia, and up to the time of his death, he had been intimately involved with Belinda Sugar and Rachel Whine. Each had a child with him, namely Paris and Milan respectively, who are minors. According to Belinda and Rachel, they were each cohabiting with Ralph up to the time of his death.

Jhaimia insists that the estate belongs to her and the children of the marriage and consults you for legal advice.

Advise Jhaimia as to the type of grant of representation to be issued in Ralph's estate and the manner in which the estate should be distributed.

- (b) Idris Bethany, a registered nurse, migrated to Toronto, Canada, in 1999. On September 12, 2022, he died intestate, leaving assets in Canada and in your jurisdiction.

In December 2022, his wife and administratrix, Aquilla Bethany, who is domiciled in Canada, obtained a Grant of Administration in Idris's estate in Canada.

Aquilla now wishes to take the necessary steps to have an agent appointed to administer on her behalf, the assets in your jurisdiction, comprising the following:

- Realty totalling \$35,000,000.
- Personalty, being monies in the bank totalling \$1,500,000.

The estate liabilities in the jurisdiction total \$1,000,000.

- (i) Advise Aquilla as to the application to be made, and the steps to be taken to administer the assets and wind up the estate in your jurisdiction.
- (ii) Draft/detail the contents of the Oath (or Petition and Oath in the case of Belize) required for the application in your jurisdiction.

QUESTION 3

Patricia Blackwell, a dental surgeon and widow, died testate on May 6, 2020. The executors appointed under Patricia's Will are husband and wife, Allan Daye and Erica Daye.

The dispositions under Patricia's Will are as follows:

"... bequeath the sum of \$4,300,000 from my Guaranteed Safety Bank Account Number 5555, located at 16 Reliable Street in the parish of Christ Church, to my niece, Ziyah Veracity.

ALL THE REST AND RESIDUE of my estate of whatsoever kind and wheresoever located to my beloved children, my daughters, Charis Blackwell-Slack and Elizabeth Blackwell."

Patricia's estate comprises the following:

- Realty totalling \$55,000,000.
- Personalty totalling \$4,500,000.
- Liabilities totalling \$2,500,000.

On October 15, 2020, Erica died suddenly of a heart attack, at home, while she and Allan were watching the evening news on television. Allan was plunged into great mourning at the sudden death of his wife, and has been unable to cope with his grief and resume a normal life.

Since November 2021, Charis and Elizabeth, beneficiaries under the Will, have been urging Allan to take steps to obtain the Grant of Probate in Patricia's Will.

Charis and Elizabeth have called and sent WhatsApp messages to Allan. They have also sent several emails impressing upon Allan the need to act, and informing him that the realty devised under the Will is deteriorating. The matter is further compounded by the accumulation of monthly bills including water, electricity, and the West Alarm Home Security System, which have not been paid.

However, Allan, in his continued state of grief, has failed to initiate any steps in relation to the estate, although he had promised to act. Allan has steadfastly refused to renounce his executorship.

Elizabeth and Charis are anxious to have the estate administered.

Elizabeth has migrated to the United Arab Emirates, where she is now employed as a teacher, and has no problem with Charis proceeding without her.

Charis attends your office seeking advice as to the measures that can be taken to have Patricia's estate administered.

- (i) Detail the initial steps that need to be taken in the circumstances outlined, describing the law and procedure.
- (ii) On the assumption that Charis is successful in the initial steps, draft/detail the Oath (Petition and Oath in the case of Belize), to lead the grant of representation in Patricia's estate.

END OF PAPER