

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR SUPPLEMENTARY EXAMINATIONS 2023

PROBATE PRACTICE AND PROCEDURE

(TUESDAY, AUGUST 08, 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.

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**PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.**

## **QUESTION 1**

On August 7, 2019, Nicole Cardenas, an aesthetician, made a Will with the following dispositions:

*“(a) I give and bequeath the following :*

- (i) My 2019 Ford Ranger motor truck, bearing registration number and letter 7157 EQ, to my daughter, Anastasia, absolutely.*
- (ii) The sum of \$1,000,000 to my business partner and friend, Richard Lhung.*

*(b) I give and devise my apartment at Serenity Boulevard, Paradise Province, comprised in Certificate of Title/Land Certificate registered at Volume/Block 1250 Folio/Parcel 131, to my daughter, Anastasia, absolutely.*

*(c) I give bequeath and devise the rest and residue of my estate, of whatsoever kind, wheresoever located to my daughter, Anastasia, absolutely.”*

Sometime in November 2022, Nicole learnt that Anastasia had stopped attending law school and was no longer pursuing her legal education certificate. Nicole was informed by one of Anastasia’s friends, that she (Anastasia) had commenced vlogging and blogging on emerging trends in *haute couture* fashion. Anastasia’s growing social media platform and presence as a content creator, and social media influencer, had proved quite successful, with followers exceeding five million persons and a significant monthly income in United States of America dollars.

Nicole was deeply troubled, having expended a significant amount of her savings towards Anastasia’s tuition over the five years of her studies. She invited Anastasia home during the teaching break of February 2023. Anastasia returned home, unaware that her mother knew she was no longer pursuing her legal education certificate. During dinner, Nicole indicated to Anastasia what she had learnt. However, Anastasia remained adamant that she would pursue her life’s passion as a content creator and social media influencer. Nicole left the dining table, and retrieved her Will from the safe, and returned to the dining table in a fit of rage, and began tearing the Will.

Nicole stopped tearing the Will after Anastasia convinced her that she would complete her legal education certificate programme, as final examinations were just weeks away. Nicole then proceeded to tape the partially torn Will, and placed it back into her safe.

Nicole died on May 1, 2023. Anastasia upon reading the Will realized that Richard, a beneficiary, is also one of the attesting witnesses.

Further examination of the Will also revealed that Nicole's signature is incomplete and it had no attestation clause.

Advise Anastasia, who is the principal beneficiary under the Will, on the legal issues raised by these facts, and whether the Will is admissible to probate.

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## **QUESTION 2**

Vincent Chamberlain died intestate on May 6, 2022, leaving realty valued at \$15,000,000, and personalty valued at \$2,500,000, which includes personal chattels valued at \$1,000,000.

Vincent is survived by Rachel Weir, with whom he had cohabited for 20 consecutive years, up to the time of his death. Rachel at the time of Vincent's death, had just filed a petition for dissolution of her marriage to Kris Fleece. Kris is a citizen of the United States of America, whom she had married in August 2014, with the hope of obtaining a permanent resident card (green card) to emigrate to the United States of America.

Kris made numerous promises claiming that he had started the immigration filing process for Rachel to obtain a green card. However, up to 2020, his promises were never evidenced by any documentation.

During the subsistence of his relationship with Rachel, Vincent fathered twin daughters, Michelle and Mercedes, who are now 19 years old. This was the result of a relationship with another woman. Vincent's name is not on either Michelle's or Mercedes's birth certificate.

Vincent and Rachel had no children together. However, Rachel had two children from a previous relationship, Terrence Baldwin and Tanya Baldwin, who are now adults, aged 24 and 26 years respectively. They were accepted as children of the family by Vincent.

Vincent is also survived by his mother, Victoria Chamberlain and his father, Zechariah Chamberlain. After Vincent's death, Victoria and Zechariah informed Rachel, that only they (Vincent's parents) as well as Michelle and Mercedes, were entitled to "get everything" under Vincent's estate.

Rachel consults you for legal advice.

(a) Advise Rachel, giving reasons, as to:

- (i) the type of grant of representation to be issued in Vincent's estate and the person(s) entitled to take the grant of representation; and
- (ii) the distribution of Vincent's estate.

(b) Draft/Detail the Oath (Petition and Oath in the case of Belize) to lead the grant of representation in Vincent's estate.

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### **QUESTION 3**

Jeremiah Fennell, a businessman, died testate on May 1, 2020.

The sole executor appointed under Jeremiah's Will is his brother, Ezekiel Fennell.

The disposition under Jeremiah's Will is as follows:

*"I give bequeath and devise my entire estate to my only begotten child, my daughter Zacharia Fennell."*

Jeremiah's estate comprises the following:

- Realty totalling \$80,000,000.
- Personalty totalling \$15,000,000.
- Liabilities totalling \$10,000,000.

Jeremiah was astute in business. He owned and operated his auto mechanic and loss adjuster business under the name Auto Mechanic and Loss Adjuster Experts (the business).

Following Jeremiah's death, Ezekiel immediately took over as manager of the business and all matters related to Jeremiah.

Ezekiel, in examining the bad debt portfolio of the business, issued letters of demand and collected from debtors of the business, namely:

- Eric Grease \$500,000;
- Hayden Blaise \$100,000; and
- Refrigeration and Fabricators Limited \$2,000,000.

Receipts for the payments were issued by Ezekiel to the debtors identified above.

Additionally, Ezekiel advertised for creditors of Jeremiah's estate.

To date, Ezekiel refuses to seek the grant of probate in Jeremiah's estate. He is upset that, as Jeremiah's only sibling, no provision was made for him (Ezekiel) but that Jeremiah left the entire estate to his "spoilt brat" Zacharia. According to Ezekiel, Zacharia is wasting her university tuition, and "is well on her way to becoming a professional student".

Frustrated, Zacharia, who asserts she has business ventures of her own, but has no capital to invest though she is the sole beneficiary of her father's estate, attends your office seeking advice as to the measures that can be taken to have Jeremiah's estate administered.

- (a) Detail the initial steps that need to be taken in the circumstances, describing the law and procedure.
- (b) On the assumption that Zacharia is successful in the initial steps, draft/detail the Oath (or Petition and Oath in the case of Belize) to lead the grant of representation in Jeremiah's estate.

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**END OF PAPER**