

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS 2025

PROBATE PRACTICE AND PROCEDURE

(MONDAY, MAY 12, 2025)

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

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

Catherine Mayhen has retained the law firm stating that she is the sole executrix in the 2022 Will of Henry Straun, who died in February 2024. 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 bequeath the sum of \$2,000,000 from my Cherubim Investment Bank Account Number 9876 to my aunt, Mavis Timberlake." The name "Mavis Timberlake" has been crossed out and the name "Sharon Belafonte", substituted. There are no signatures or initials beside this change.

Catherine's instructions are that Edgar Richardson and Nevean Sportage are the attesting witnesses who were present and saw when the change was made by the Testator, in his own handwriting, but he did not sign or initial the change. The witnesses maintain that this change was made before anyone signed the Will.

- (b) In the tenth line of the Will, the word beginning the sentence was completely obliterated and it is impossible to see with the naked eye what was written there before, and the name "Ibiza" was substituted, followed by the words "to whom a motor truck is given".

This change was initialled by the Testator, but no initials of the attesting witnesses are present. The attesting witnesses maintain that they are unaware of this change.

- (c) Other dispositions under Henry's Will include:

- (i) "I give and bequeath my 2019 Ford Ranger motor truck, bearing registration number and letter 5678 AB, to my brother Jethro Black, absolutely."

Catherine further instructs you that Jethro predeceased Henry in August 2023, and no changes were made to the Will regarding the gift to Jethro.

(ii) "I give and devise Greenwich Escape, Lot No. 72, Greenwich, Jurisdiction, to my wife, Karissa, absolutely."

Henry sold Greenwich Escape in November 2023 to offset his medical bills, Catherine informed.

(iii) "The rest and residue of my estate of whatsoever kind and wherever located, to my wife, Karissa, and my brother, Jethro, in equal shares, absolutely."

Prepare the requested legal opinion for your senior partner advising on the issues that arise under Henry's Will and the effect of any changes made. Citing legal authorities and any relevant rules that require any document (s) that need to be filed, state reasons for your opinion.

QUESTION 2

On April 17, 2020, Hyacinth Welder, a successful sculptor, executed her Will in which she appointed Nastassia Salt as her sole executrix. Under the Will, Hyacinth distributed her estate to her children as follows:

"My seaside villa, Whistling Waters, Frenchman's Cove, to my daughters, Rita Welder and Ama Welder, to be held as tenants in common in equal shares, absolutely.

My yacht, 'Pride of Africa', and all fishing accessories, to my son, Marley Welder.

ALL THE REST AND RESIDUE of my estate to my daughter, Rita Welder, absolutely."

Hyacinth died on May 12, 2022, leaving both real estate totalling \$50,000,000 and personalty totalling \$40,000,000.

Nastassia, the executrix, had anticipated that she would have received some choice pieces of sculpture under Hyacinth's Will, and became embittered and contentious when she learnt this was not the case. Since the Thanksgiving Service celebrating the life of Hyacinth and interment of her body in June 2022, Nastassia has resisted all attempts to discuss the administration of the estate with Hyacinth's children who are the beneficiaries under her Will. Nastassia has refused to return Rita's telephone calls, WhatsApp messages, emails and requests for meetings whether virtual, or in person.

Nastassia, who is in possession of Hyacinth's Will, has taken no action in relation to the estate, and has refused to renounce her executorship. She bemoans the years of friendship she and Hyacinth shared, and the 'ghastly act' of not being named a beneficiary under Hyacinth's Will.

Rita is distressed by these developments. Being the eldest of Hyacinth's children and the one expected to take the leading role in matters of the family. She is bombarded by Ama and Marley, regarding settling Hyacinth's estate.

Frustrated, Rita attends the law firm Legal Solutions of which you are an associate, seeking advice as to the measures that can be taken to have Hyacinth's estate administered.

The file has been passed to you by the senior partner, Arnold Brevity, requesting that you:

- (i) prepare a memorandum discussing the initial steps that would ordinarily be taken on behalf of Rita in the circumstances, describing the law and procedure in relation thereto;
- (ii) based on your answer to (i), draft the Affidavit in Support, of the principal document addressed to Nastassia, the sole executrix, to be issued on the authority of the Supreme/High Court at the instance of your client; and
- (iii) assuming that the initial application is successful, draft the Oath (or, in the case of Belize, a Petition and Oath) to lead the grant of representation.

QUESTION 3

Phillipe Crimarco, a businessman of Caribbean descent, had been living permanently in England

for 47 years. Most of his assets were in England, but he also owned a farm, shares in a private company, and cash in accounts maintained at several institutions in your jurisdiction.

Phillipe was quite astute and private, and decided that he was well adept at preparing his own Will. He prepared and executed his own Will on June 15, 2019, in which he appointed Branson Burby and Jessica Flack as the executors. Phillipe died in October 2023, leaving his beloved wife, Carmen, and his two adult children, Dominique Crimarco and Deslandes Crimarco, and grandchildren, Aria Crimarco, Isabelle Crimarco and Gabriel Arthurs.

Branson and Jessica consulted with United Kingdom solicitors, McKaine and Forsythe, in January 2024, regarding the application for a grant of probate in Phillipe's estate. Upon perusal of Phillipe's Will by senior partner, Mr. Perry McKaine, it was determined that Phillipe's Will was invalid as it failed to comply with the formalities prescribed under the Wills Act of the United Kingdom, since only one attesting witness's signature was present as subscribing to the execution of Phillipe's Will. Thus, Phillipe died intestate.

The relevant court in the United Kingdom approved Carmen's application for a Grant of Letters of Administration in Phillipe's estate.

Carmen now wishes to take steps to obtain legal authorisation to administer the real and personal estate Phillipe left in your jurisdiction, and is desirous of an agent being appointed to act on her behalf in the jurisdiction.

Phillipe's assets in the jurisdiction comprise the following:

- Farm: Richmond Farm, valued at \$75,000,000.
- Personalty totalling \$25,000,000 comprised of personal chattels, shares and amounts in bank accounts. The personal chattels alone are valued at \$5,000,000.

Phillipe's liabilities in your jurisdiction amount to \$5,000,000.

- (i) Advise Carmen as to the steps to be taken to administer the assets in your jurisdiction and transfer them to the person(s) beneficially entitled.
- (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 lead the application.

END OF PAPER