

KENYA SCHOOL OF LAW



EXAMINATION FOR ADMISSION TO  
THE ROLL OF ADVOCATES

**PROBATE AND ADMINISTRATION – ATP 102**

23<sup>RD</sup> JULY, 2014

DURATION: 3 HOURS

**Instructions to Candidates**

- (a) Answer Question **ONE** and **THREE OTHER** Questions at least One from Section Two
- (b) All questions carry fifteen (15) marks each
- (c) Marks may be lost for illegibility

PLEASE TURN OVER

## SECTION ONE

1. Mr. Jehu, a wealthy businessman owned several houses in Milizuri Nakuru, a large farm in Kitale in which he grew wheat, and a palatial home in Milisafi, Nairobi.

Mr. Jehu lived happily with his wife Jolly and two grown up sons, until four months ago when his twin brother fell sick from cancer. Mr. Jehu was affected by his brother's sickness to a point that he stopped working and on several occasions he was seen muttering incoherently in a strange voice.

Two months ago Mr. Jehu decided to draw a will bequeathing all his assets to a Children's Home in Kawangware, and kept the Will in his safe.

Mr. Jehu's brother died a month ago. During the funeral, Mr. Jehu collapsed and died when the body of his brother was being lowered into the grave, at which time people began to scream; among the ones who made the loudest sounds were three women. The first one was Jolly, the second was identified as Kadogo, who claimed that Mr. Jehu had married her but divorced her ten years previously; and the third one, Kasupuu stated that she was the deceased's girlfriend and had a son who was a spitting image of the deceased. Furthermore, Mr. Jehu's mother cried very loudly saying that her deceased son used to provide for her every need and she now wondered about her future.

After the burial of the deceased, widow Jolly, the divorcee Kadogo and the girlfriend Kasupuu have come to you as a renowned advocate of the High Court of Kenya on succession matters, for legal advice and action. During instructions, Jolly gave you the will she found in the safe.

In the meantime, the deceased's mother has gone to see their family lawyer for legal advice in order to receive some share from her deceased son's estate.

Furthermore, the deceased's neighbour, Reno, has come to see Jolly with a set of keys stating that the deceased had given him the keys and told him that should he die soon he, Reno, should take the car. However, Jolly has chased him away. Mr. Reno has gone to see his lawyer for legal advice.

Meanwhile, the deceased's young brother Kapaya has driven off with one of the deceased's cars and taken all his suits and shoes. Jolly has once more gone to see her lawyer for advice. Finally, Kasupuu needs school fees for her son.

- (a) Discuss in depth the advice the various lawyers will give their clients.

(10 Marks)

(b) What specific steps would be required of each lawyer in pursuit of their clients' interests?

(5 Marks)

2. Section 3(5) of the Law of Succession Act (Chapter 160 of the Laws of Kenya) has now been rendered redundant by the Marriage Act 2014.

"Anonymous"

Discuss.

(15 Marks)

3. Mr. Lule was an infantry soldier attached to Kahawa Army Barracks. Five months ago he was sent to Somalia on a peace keeping mission. On arrival they were shot at and Mr. Lule was injured seriously. His colleagues rushed him to a clinic nearby but died while receiving treatment. Before he died, he had told his nurse that should he die, Jane, his fiancée, should get all his property.

After Lule's demise and burial, his father went to court to apply for a grant of letters of Administration. In the meantime, Lule's fiancée has applied for a grant of probate claiming that the words spoken by Lule constituted a valid Will.

Advise the parties accordingly.

(15 Marks)

4. With the assistance of legal provisions and case law, discuss Revocation of wills.

(15 Marks)

## SECTION TWO

5. Robusta was appointed a personal representative of Mobo's Estate. Advise Robusta on the kind of records required to be kept by all personal representatives.

(15 Marks)

6. Mr. Kali was appointed an administrator of John's estate who died seven months ago survived by three sons. Upon receipt of the confirmed Grant of letters of administration he sold all the assets of the deceased's estate and kept the proceeds of the sale for himself; to the exclusion of his two brothers.

Advise the other beneficiaries of the estate of the deceased the steps they need to take to obtain a share of John's estate.

(15 Marks)