

CASE STUDY MATERIALS

January 2018
Level 6
PROBATE PRACTICE
Subject Code L6-21



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 21 – PROBATE PRACTICE*

CASE STUDY MATERIALS

Information for Candidates on Using the Case Study Materials

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these materials with your tutor/s either face-to-face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relate to these case study materials.

Instructions to Candidates Before the Examination

- You will be provided with a clean copy of the case study materials in the examination.
- You are **NOT** permitted to take your own copy of the case study materials or any other materials including notes or textbooks except a Statute Book, where permitted, into the examination.
- In the examination, candidates must comply with the CILEx Examination Regulations.

Turn over

* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer and work in the Private Client Department of Kempstons, The Manor House, Bedford, MK42 7AB (DX BD345987).

Your supervising Chartered Legal Executive and head of department is John Rose.

You arrive at work after a bank holiday to find the following awaiting your attention:

- DOCUMENT 1** Letter from Gloria White dated 30 December 2017 re: David Hussey deceased
- DOCUMENT 2** David Hussey's Will dated 20 April 2012
- DOCUMENT 3** Email from John Rose dated 30 December 2017 re: Thomas Platt deceased
- DOCUMENT 4** Thomas Platt's Will dated 10 August 1999
- DOCUMENT 5** First Codicil to Thomas Platt's Will dated 6 September 2017
- DOCUMENT 6** Email from John Rose dated 30 December 2017 re: Katherine Monk deceased
- DOCUMENT 7** Email from John Rose dated 30 December 2017 re: Dawn Tomlinson deceased

DOCUMENT 1

Letter from Gloria White

30 December 2017

Dear Mr Rose

My partner David Hussey was diagnosed with cancer a couple of years ago. Unfortunately, a few weeks ago he lost his battle against this dreadful disease.

David left a Will. He had intended to update this Will, but never got round to doing so. A copy of the Will is attached (**Document 2**).

David and I were in a long-term relationship until his death. David was never married and did not have any children. Joshua was his only brother and his only sister, Caroline Dusk, died two years ago. David's parents both died in a plane crash in 2013.

Joshua has never married and has no children. Caroline had three children: Tom, Ken and Mary. Mary died in a car accident in 2014. The other two children are adults and have survived David.

David owned a semi-detached house on 'The Horseshoe' in York with Joshua on a beneficial joint tenancy basis. The house is valued at £500,000. I was told that your firm acted on the house purchase, so I am sure you will be able to confirm that they both owned it jointly. There is no outstanding mortgage on the house.

David also had a collection of antique furniture, a painting of London Bridge and a set of vinyl records. All his items of clothing, shoes and watches are valued at £800. David's Mercedes-Benz car is worth £16,000. The remaining contents of the house were held by David and Joshua on a beneficial joint tenancy basis and are valued at £10,000.

I know that David had some investments and money in different business banks.

Joshua is currently too distressed about the death of his brother and has therefore asked me to make this initial enquiry with you and, if possible, to book a meeting with you. Joshua and I would like to come and see you for some guidance on how to deal with David's Will and the administration of his estate.

In the meantime, and before our meeting, I will help Joshua in making further enquiries to identify any other assets that David may have had.

Yours sincerely

Gloria White

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DOCUMENT 2

David Hussey's Will

This is the Last Will and Testament of me David Hussey of 63 The Horseshoe York YO3 2JB.

I revoke all former Wills

1. I appoint my brother Joshua Hussey and my sister Caroline Dusk as the executors of my Will
2. I give the following:
 - (a) my collection of antique furniture to my nephew Tom Dusk
 - (b) my vinyl records to my nephew Ken Dusk
 - (c) my London Bridge painting to my niece Mary Dusk
 - (d) all my personal chattels not bequeathed by this my Will together with any of the specific legacies in clauses 3 (a) to 3 (c) which shall fail for any reason to Gloria White
3. I give the sum of five thousand pounds (£5,000) to my sister Caroline Dusk
4. I give the sum of one thousand pounds (£1,000) to each of my nephews and niece Tom, Ken and Mary
5. I give the remainder of my estate to my mother Sarah Hussey absolutely.

Signed by

David Hussey

20 April 2012

In the presence of

Genevieve Black of 63 Millgrove Lane York. Teaching Assistant.

Rebecca Clarke of 120 Clifton Moor York. Registered Nurse.

DOCUMENT 3

Email from John Rose re: Thomas Platt deceased

From: John Rose (john.rose@kempstons.co.uk)
To: Trainee Lawyer
Date: 30 December 2017
Re: Thomas Platt deceased

I have been in a meeting with Jimmy Platt. Jimmy's father, Thomas, died last week leaving a Will. He was aged 76. Thomas lived alone at 3 Kirkwood Park, Hull, HU99 0QW, with the support of his family. Thomas divorced his wife, Christiana Platt, in 2000. Jimmy (now aged 37) is the son of Thomas and Christiana. Jimmy has never been married and has no children.

Thomas had three other children: Richard Platt (aged 41), Sarah Platt (aged 43) and Martin Platt (aged 46) from previous relationships. Martin was closest to his father, but when Martin emigrated to New Zealand in 1999, his relationship with his father suffered. He saw his father very rarely, and so does not feel it is right that he should act as an executor to his father's Will.

Christiana died a couple of months ago, without leaving a Will. She was engaged to Boris Clarke. They had three children: Dawn, Henry and Anna. Henry died four months after he divorced his wife, Steph, in 2015. He left behind three children of the marriage: Callum, Felicity and Liam. Christiana's estate has not yet been administered.

Five months before the death of Thomas, Jimmy was asked by his father to move in with him on the basis that Jimmy would have a roof over his head and he could provide his father with the care and support he needed on a day-to-day basis. Jimmy told me that his father was going to amend his Will to leave the house to him. Jimmy is worried that, if that were the case, his step-brothers and step-sister would think that he has taken advantage of his father. Jimmy is also concerned whether any amendments to the Will were of legal effect. Jimmy confirmed that he found three testamentary documents made by his father, but only brought in copies of two of these to the meeting of 30 December 2017 (**Documents 4 and 5**). He forgot the third document, which is held at home, as he was running late.

According to Jimmy, the house was owned jointly by Thomas and Christiana as beneficial joint tenants and valued at £150,000. There is no outstanding mortgage on the property. Thomas and Christiana also purchased a property known as The Boathouse in 1998 as beneficial tenants in common in equal shares. The Boathouse is valued at £50,000. Thomas also had a collection of paintings valued at £2,800. A collection of Thomas' shoes and watches is valued at £3,500 and Thomas' BMW 1 Series 2007 car is worth £1,000. Thomas invested in stocks and shares worth £250,000. At the date of his death, Thomas also had £3,200 in his NatWest current account and £16,000 in his HSBC savings account.

Jimmy would like some initial advice as to the position regarding both his late father's estate and that of his late mother.

[Note to candidates: you may assume that the Will and Codicil (Documents 4 and 5) are valid.]

Turn over

DOCUMENT 4

Thomas Platt's Will

THIS IS THE LAST WILL AND TESTAMENT of me **THOMAS PLATT** of 3 Kirkwood Park, Hull HU99 0QW.

I REVOKE all former wills.

1. I APPOINT my wife Christiana Platt and my sons Martin Platt and Richard Platt to be the executors of my will.
2. I GIVE to my son Martin Platt all my interest in the property known as The Boathouse free of all duties and taxes.
3. I GIVE to my son Richard Platt my collection of paintings free of all duties and taxes.
4. I GIVE to my son Jimmy Platt my collection of shoes and watches free of all duties and taxes.
5. I give the remainder of my estate to my wife Christiana Platt absolutely.

IN WITNESS whereof I have hereunto set my hand this Tenth day of August 1999

Signed by the above-named THOMAS PLATT)
as his last Will in the presence of us)
both present at the same time who at his request in his)
presence and in the presence of each other have) *Thomas Platt*
hereunto subscribed our names as witnesses:)

Eugene Davis
9 Kentish Street
The Grove
Hull
Painter

Jess Parker
20 Kentish Street
The Grove
Hull
Chef

DOCUMENT 5

First Codicil to Thomas Platt's Will

I THOMAS PLATT of 3 Kirkwood Park, Hull HU99 0QW DECLARE this to be a FIRST CODICIL to my Will dated 10th August 1999 ('my Will')

1. I GIVE to my son Jimmy Platt all my interest in the property known as 3 Kirkwood Park, Hull HU99 0QW free of all duties and taxes
2. In all other respects I confirm the provisions of my Will.

IN WITNESS whereof I have hereunto set my hand this Sixth day of September 2017

Signed by the above-named THOMAS PLATT)
as his last Will in the presence of us)
both present at the same time who at his request in his)
presence and in the presence of each other have) *Thomas Platt*
hereunto subscribed our names as witnesses:)

Eugene Davis
9 Kentish Street
The Grove
Hull
Painter

Jess Parker
20 Kentish Street
The Grove
Hull
Chef

Turn over

DOCUMENT 6

Email from John Rose re: Katherine Monk deceased

From: John Rose (john.rose@kempstons.co.uk)

To: Trainee Lawyer

Date: 30 December 2017

Re: Katherine Monk deceased

I received a telephone call from Helen Monk. Her mother, Katherine Monk, died in August 2017 without leaving a Will. Katherine lived in a house at Fort Picklecombe, on the Cornish coast. .

Katherine lost her husband Unwin in July 1989, when he suffered a heart attack. Unwin died leaving a Will. In his Will, he left £6,000 to each of their children Rob Monk and Helen Monk and the rest of the estate passed to Katherine. Neither Katherine nor Unwin made any lifetime gifts.

Before Unwin's death, Katherine made a promise not to remarry. She remained a widow until her death in 2017.

Enquiries made have identified that Katherine owned the following assets, all held in her sole name:

1. a freehold house in Fort Picklecombe valued at £380,000;
2. a current account with HSBC Bank (balance at date of death: £20,000);
3. a Santander Bank account (balance at date of death: £50,000);
4. minority holdings in various quoted stocks and shares (value at date of death: £100,000);
5. a life insurance policy with General & Legal (the policy proceeds total: £40,000);
6. a collection of jewellery (valued at: £10,000).

Katherine's son, Rob, died in November 2017 without leaving a Will. He was aged 43 at the date of death. Rob was a senior safety engineer working for ABC International Plc. He was a member of the company's pension scheme and there is a lump sum of £75,000 due to be paid out by the trustees of the scheme. Rob had nominated Helen to receive the lump sum.

Rob had inherited a house from his uncle currently valued at £100,000. He had never been married and he had no children. He is survived by his sister Helen.

Helen is proposing to sell Rob's house, but a buyer has not yet been found and the comprehensive buildings insurance policy is about to expire.

Helen would like some advice on how her deceased family's estates will be administered and on any IHT-related matters.

DOCUMENT 7

Email from John Rose re: Dawn Tomlinson deceased

From: John Rose (john.rose@kempstons.co.uk)
To: Trainee Lawyer
Date: 30 December 2017
Re: Dawn Tomlinson deceased

Dawn Tomlinson died in a car accident in November 2017. She died intestate, leaving a husband Frank and an adult only child Paul.

Dawn lived in a three-bedroom, semi-detached property, which she owned as joint tenants beneficially with her husband Frank. The property is valued at £300,000. Dawn's personal items and chattels, excluding the collection of jewellery referred to below, are worth £7,500.

Dawn was a successful business person and an avid investor. Dawn had owned 1,000 shares since 2014 in a privately run family business, Delicious Burgers Limited – a trading company. Her shares in that company are currently valued at £500,000. In 2013, she had bought listed non-controlling shares in Farmhouse Investment Limited, valued at £430,000.

In 2011, Julia Robert, an old school friend of Dawn, set up a family-based business, RealProperty. RealProperty provides boutique property to busy professionals and quality property solutions for landlords, agents and partners. In 2012, Julia started to market the business to high-net-worth individuals and businesses including Dawn. By 2013, the business had grown to the point where Julia needed help to support the business. After a family discussion one night at the kitchen table, it was agreed that Julia would sell 50% of the business and rename it RealProperty Partnership.

In 2014, Dawn bought a 50% partnership interest in RealProperty Partnership, now currently worth £260,000. RealProperty Partnership relocated to Kempstons South. Dawn owned the premises that were used wholly by RealProperty Partnership. Dawn had previously purchased the premises in 2012. The premises have currently been valued at £500,000.

At her death, Dawn had £160,000 in her NatWest savings account. She owned a collection of jewellery valued at £7,500. She also had cash of £500.

Dawn's funeral expenses amounted to £4,500. She had no debts or any other liabilities. In March 2015, Dawn gave Paul £40,000, to enable him to buy a share in a firm of architectural designers in which he is now a partner. Dawn made no other lifetime gifts of cash or assets of any value.

Frank has now consulted us for advice regarding Dawn's estate.

End of Case Study Materials

