

Wills & Trusts
Final Exam
Fall, 2008

INSTRUCTIONS

This is a closed book, three hour exam, consisting of three questions, the first worth 40 points, and the second and third each worth 30 points.

Good luck, and I wish you a happy holiday season.

QUESTION ONE

Candace Koolcat and her husband, Jerry Johansen, were high school sweethearts who married in 1975. They had a bouncing baby boy named Tim in 1977. They added a little girl named Kim in 1990. Jerry then enlisted in 2002 and served during the second Gulf war, and that is when things started to get interesting. First, while overseas, Jerry impregnated a Saudi girl, who had a bouncing baby named Ahmed, seven months after Jerry shipped back to the States in June of 2004 (Jerry was unaware of this). In January, 2005, Candace gave birth to her third child, named Jim.

In August, 2005, Jerry made his last will, which left \$2,000 to his friend "Fred Feeble, but if he fails to survive me, then to Fred's 12 year old son Bob in trust, payable at age 18." Jerry left everything else to Candace, and specifically disinherited Tim, Kim, and Jim, stating that "I am confident that their mother will provide for all my children."

Jerry's will was one he got from internet sources, and he signed it in front of two witnesses, Fred, and Fred's 17 year old son Bill, who then signed as witnesses.

Candace made her own internet will, which left nothing to Jerry (she had her suspicions about Jerry), and everything to his sister, Joan, who had one child of her own, Leeza.

Tim was unmarried, with one child (named Kerry) born out of wedlock, and his internet will, which he signed in front of two witnesses who also signed, left \$1,000 to each of his parents, specifically disinherited Kerry, and left everything else to his best friend and confidant, William Jackson.

Fred, who had been a successful hedge fund manager, was worth about \$3,000,000. His will left everything "according to the provisions of Massachusetts General Laws chapter 191B, the Uniform Statutory Will Act."

Not surprisingly, Kim also made a will, also from an internet source. In her duly executed will, dated August 12, 2007, she left \$2,000 to each of her parents, and

everything else to Kerry, since she knew about Tim's will, and was good friends with Kerry's mother, Jane.

On December 10, 2008, Tim, Kim, Fred Feeble, Joan, William Jackson, and Kim's parents died in a bad car accident while enroute to the Burlington Mall to do some Christmas shopping. In Jerry's wallet was a winning Mass Megabucks ticket, worth \$10,000,000.

WHO GETS WHAT, AND WHY?

QUESTION TWO

In 1990, Jane married Jim when she was 25, and he was 27. They had no children together, believing that the world was a miserable place, and they were determined not to add to the world's problems. (Jim did have a child he did not know about, a boy named Roger, the result of a college dalliance). They did have a pet bulldog, Archie. Both Jim and Jane had large extended families, and both of their parents were (and are) still alive. Jim and Jane liked to go hiking, but one day in 1992, they were set upon by some crazed, moonshine-drinking, no-teeth hillbillies, and they were lucky to escape with their lives (they did, however, sacrifice much of their dignity in the ordeal).

So, when they recovered, Jane went to their lawyer, who drafted her will. Jane's will read in pertinent part as follows.

1. I leave half of my estate to my husband, Jim. If he fails to survive me, then this share shall go to his brother, Tom.
2. I leave the other half of my estate to my sister, Janice, and if she fails to survive me, then to her kids, Tina and Tony.

Jane signed the will in her lawyer's office, and the will was witnessed and signed by Janice's daughter Tina and by the lawyer who drafted the will, Rickey Rouse (Tina worked as a paralegal in Mickey's office, if that's important to your understanding of the story line). Attorney Rouse had prepared another will, in 1988, for Janice, which was duly executed and provided that everything would go to her brother, Todd.

Jim was in Arizona on a business trip in late 1993, and got bored while sitting on the tarmac in Phoenix. So, since he had wireless access, he downloaded a form will and typed in provisions leaving \$20 to his wife, \$5,000 to the first child of Tom to reach the age of 25, and everything else to the American Red Cross. He was able to print it right on the plane. And then he signed it and put it in his briefcase.

Two years after Jane's will was signed, Jane and Jim had a big fight (it was all a misunderstanding, as you will see), and got divorced.

They both dated other people after the divorce, but happened upon each other by chance in the cookie aisle at the Market Basket in Andover, got to talking, hashed things out, and were remarried six months later.

Nine months to the day of their remarriage, they were blessed with a child they named Joey. To celebrate, they decided to go camping in the woods, leaving little Joey with Auntie Janice. The hillbillies found them again, and this time, Jane and Jim were not so lucky. They both were found two weeks later, both of them having expired due to hypothermia. Outside of a few belongings, the only thing found on Jane was a little piece of paper, handwritten in what appeared to be blood, which said, "don't forget DRR!"

Really, a sad story. So,

WHO GETS WHAT, AND WHY?

QUESTION THREE

Question Three

Justine was born in 1960. She lived in Andover her entire life. She got married in 1981, to Steve, and they had triplets the very next year. Their names were Jennifer, Joan, and Jean. Justine's grandmother, Earline, set up a revocable trust in 1984, naming herself as trustee, with income to herself for life, and then "to my grandkids when they reach the age of 25." She also retained the power to revoke the trust during her lifetime. She funded the trust with \$5 million dollars.

In 1990, Justine and Steve had another baby, this time a boy, named Tim.

- 41 In 1993, Earline died in a fiery car crash caused when she was trying to get the "oldies" station on the radio. The driver of the other car died also. She left a life insurance policy of \$5 million dollars to her husband, Bob. She also owned a house worth \$1 million dollars, which she and Bob owned as tenants by the entirety. Other than that, all she had in her own name was a bank account, with about \$5,000 in it.

Earline's will had a few interesting things in it. First, she disinherited her husband. Second, she left her half of the house to her brother, Mark. Third, she revoked the trust. Fourth, she changed the beneficiary of her life insurance policy to her sister, Mabel. Finally, she left everything else to the Red Cross.

In 1998, Joan married Chico. In 2006, she died while giving birth to her daughter Gloria, who survived. Joan had no will.

In 2000, Jennifer married Greg, and they had a baby boy, Ricky. Jennifer was having a lot of post-partum depression, so she wrote the following on a piece of paper. "I am so

depressed. I leave everything to Greg, who has been a real trooper throughout this whole ordeal.” She signed this piece of paper. She showed the paper to two other women in her Lawrence, MA support group, Gladys and Fern, and they both signed it, but neither one saw the other sign.

Jennifer got over her depression, and became a real estate broker. She died two weeks ago of an unexpected brain aneurysm.

Justine was sick, and she did not attend the funeral. So Steve and Jean went to the funeral together. Unfortunately, a felon running from the police ran a red light, and totaled the car they were driving in. Both died on the scene.

Steve had a will. It was duly executed, and very short, leaving everything to his children.

Jean’s will was really short. It said that “money is the root of all evil, so I leave everything to charity.” It was duly executed in her attorney’s office. Jean left behind a grieving husband and two small children.

WHO GETS WHAT, AND WHY?

Wills & Trusts
Final Exam
Fall, 2005

INSTRUCTIONS

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QUESTION ONE

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In 2003, Jerry made his last will, which left \$2,000 to his friend "Fred Feeble, but if he fails to survive me, then to Fred's 12 year old son Bob in trust, payable at age 18." Jerry left everything else to Candace, and specifically disinherited Tim, Kim, and Jim, stating that "I am confident that their mother will provide for all my children."

Jerry's will was one he got from internet sources, and he signed it in front of two witnesses, Fred, and Fred's son Bob, who then signed.

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WHO GETS WHAT, AND WHY?

QUESTION TWO

In 1990, Jane married Jim when she was 25, and he was 27. They had no children, believing that the world was a miserable place, and they were determined not to add to the world's problems. They did have a pet bulldog, Archie. Both Jim and Jane had large extended families, and both of their parents were still alive. Jim and Jane liked to go hiking, but one day, they were set upon by some crazed, moonshine-drinking, no-teeth hillbillies, and they were lucky to escape with their lives (they did, however, sacrifice much of their dignity in the ordeal).

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WHO GETS WHAT, AND WHY?

QUESTION THREE

In 1993, John was a 55 year widower, with three children, Mark, Luke, and Peter, who were all in their 20's. John began to worry about what would happen to his estate when he died, so he went to his lawyer to draft a will and a trust.

The will provided that each child would get \$100,000 outright, and, in addition, the lawyer, who was named executor, was to distribute \$100,000 to local charities which, in the lawyer's estimation, would "best serve the interests of homeless dogs."

The remainder of John's estate was to pour over into the John Trust, with the lawyer as trustee, with the mandate to split the proceeds into four sub-trusts, one for each of the children, and the other for a memorial to John's beloved (but dead) wife. The sub-trust in the memory of John's dead wife was to be a charitable trust, whose sole purpose was to plant flowers along Massachusetts highways (John's wife loved flowers when she was alive, and she died in a bad accident on Route 495, when the boys were just babies.)

The three subtrusts for the children were to be paid as follows: Income was to be paid at least quarter-annually, and principal was to be paid when each child reached the age of 40.

In 1998, Peter was stopped for drunk driving, and ran up legal bills of close to \$100,000 to beat the rap. He asked his father, John, to give him an advance on his inheritance, and John readily agreed, sending him a \$100,000 check, with a note attached, which read, "Alive or dead, I will always be your Dad, and I would anything to help you, even if it means reducing the size of my estate."

Luke died in 2002, unmarried. His duly executed will left everything to his alma mater, MSL. He left a child born out of wedlock, Tammy.

John died in early 2003, and soon after his death, Massachusetts passed a law banning all flower planting along state highways.

Mark hit the Megabucks lottery jackpot (for \$10,000,000) in early 2004, and died a few months later. He left a wife and two children. He had a duly executed will, executed prior to hitting the lottery, which left everything (which wasn't much, at the time) to his wife.

WHO GETS WHAT, AND WHY?

QUESTION ONE

Billy Buddinski was born in the United Kingdom to United States citizens during World War II. Seems Billy's dad was some kind of intelligence officer helping the Brits survive the war. Being born in Britain provided Billy with the dubious benefit of having dual citizenship - United Kingdom and United States - which he was never forced to relinquish or choose between. After the war, Billy came back with his parents to Massachusetts to begin growing up in the not so quaint city of Holyoke.

Billy had a fairly normal childhood of sex, drugs, and rock and roll (actually, what passed for rock and roll when Billy was in his teens was really quite tame). His father Ned, a decorated war hero (see paragraph above), died when Billy was barely seventeen. This had a profound effect on Billy (and may even have something to do with how things shake out on this exam question). He got real serious. He knew that he had to find a job, settle, down, and help support his (soon to be feeble) mother, Bertha.

So he married his childhood sweetheart, Barbara. And he went to work in the local paper mill, churning out reams of paper, some of which ultimately ended up as law school bluebooks. Barbara, who was originally a home economics major in high school but had switched to non-home economics in her senior year, also worked at the mill, but left work when she became pregnant with child. This all happened in 1973. The newborn baby was christened Godfrey, after his maternal grandfather.

Godfrey turned out to be a brat, and a mama's boy, to boot. Barbara of course took her son's side of any argument, and it was a recipe for disaster. Disaster soon struck, in the form of a divorce decree between Billy and Barbara in 1980.

On the rebound, Billy (almost immediately married) Gracie, a waitress down at the local greasy spoon. When the paper mill was closed and all the jobs moved down south of the border, Billy began to drink very heavily. The only reason Gracie didn't throw him out on his no-good beer gut was because Billy, when sober, was really quite a nice guy to her daughter Laverne. Gracie felt it was important for a child to have a father, and since Laverne's father had died in Vietnam, Billy, for all his faults, was not thrown out, because he was a good father. So good, in fact, that Billy took out papers and legally adopted Laverne.

There is one thing you should know. Even though Holyoke is a small town, Billy never told Gracie and Gracie never knew that Billy had a son, Godfrey, by his first marriage.

One night, picking Gracie up from work and driving home, Billy lost control of his big Buick LeSabre, jumped the guardrail, and killed himself, Gracie, and 5 Hari Krishnas travelling into Logan airport in a VW bus. Gracie's will, dated September 15, 1984, stated in part her testamentary intent that her entire estate (net, not gross) be payable to

her trustees, also named in her will, such trustees being directed to pay income to Billy for life, and, after his death, to pay the principal to whomever Billy should name pursuant to his Last Will. By another clause in her will, Gracie intentionally omitted leaving anything to Laverne, as Gracie was convinced that her father would take good care of her monetarily.

Billy also left a will, in his own handwriting, on a cocktail napkin with the logo of Gracie's greasy spoon, signed by him, signed also by two witnesses. The will left everything to "my spoiled rotten pantywaist child, and no one else, I don't care who contests this, or what the law says. I mean, really, who else do I have in this world to leave my money to?"

Discuss the rights of the parties assuming first that Billy survived Gracie, and second, that he did not.

QUESTION TWO

Wilma Rudolph and Fred Rudolph, childhood sweethearts, were married soon after they graduated from Bedrock High School in Topeka, Kansas in June, 1965. Fred was confined to a wheelchair due to an unfortunate childhood accident when he and a bunch of his buddies were trespassing at the local rock-crushing quarry, so they hired another classmate, Betty Boop, to watch over Fred and attend to the household chores while Wilma was away making her mark on, and fortune in, the world. Betty moved into the Rudolph's Kansas home, ensconcing herself in their in-law suite in order to be closer to Fred and be available in emergencies.

Soon thereafter, Betty married a traveling salesman named Barney Rubble, and Wilma, Fred, Barney and Betty became very close friends. (Too close, as a matter of fact, but I'm rushing the story.) Over the next few years, Wilma became a very successful businesswoman, well-respected, and kinda wealthy. The Rudolphs never had any children of their own.

In 1971 Wilma drew up her last will and testament. The attorney who prepared the document acted as a witness to Wilma's will. As he was a solo practitioner, Betty then had to walk down to the 7-Eleven and have the pimply-faced kid behind the counter act as the other witness. It provided in part for the following dispositions:

- A. I give, devise and bequeath the sum of \$50,000 to my very close friend, Barney Rubble. I give him complete discretion to decide how to share this gift with his wife, my good friend Betty Rubble, because I know that he will give her at least \$10,000.
- B. I give my precious Hummel Plates to my good friends Barney and Betty Rubble, or to the survivor of them.
- C. I give 60% of my net estate for tax purposes to the New England Home for Little Wanderers.
- D. All the rest, residue, and remainder of my estate I give to my loving and devoted husband, Fred, who has been faithful to me despite my constant absence, and whose sense of humor and compassion is unparalleled and unmatched.

Yeah, right, Wilma. Give us a break. You think we didn't know about you and Barney all these years? You think it's all that difficult to call a city and check to see if both you and Barney were in the same hotel? That it was more than a coincidence, because it happened countless times? Wilbur Mills and Fanne Foxe were more discreet than you two sex-driven maniacs.

Is it any wonder then, while Betty and Barney were rollicking under the covers in far away climes, that Fred and Betty would be drawn together, first by friendship, then by loneliness? Is it any wonder that they would be subconsciously motivated to retaliate, despite the fact that they were basically nice people?

In 1979, Wilma and Fred Rudolph were divorced. It was a bitter contest, much reported in the local press. At one point in the proceedings, Wilma was quoted as saying that she wanted Fred to "rot in hell", that he was a "born sap", that she "never loved him", and that she would make it her "lifelong goal" to ensure that he die penniless. Fred, even more incapacitated than ever, remained in the family home after the divorce, and Betty (and Barney, when he was in town) continued to live in the in-law suite.

For some reason, Wilma thought that Barney would leave Betty, and then the two of them could run away and be happy together. Barney, however, refused to budge. Wilma, distraught (and carrying Barney's child), married a boxer named Rocky. She then drew up a new will, leaving everything to him, otherwise to their child (named Rocky II, of course). Wilma and Rocky were divorced two years later (apparently, it was a rocky relationship right from the opening bell).

Now for the weird part. In a twist of events only seen on a law school exam, Wilma and Fred reconciled, and remarried. On December 16, 1992, while flying south for a winter vacation (they took Betty along, because Wilma had to speak at a conference), the plane crashed. It was, as you can imagine, a bloody, gory, mess. There were no survivors.

Wilma's only living relative is a second cousin named Pebbles who calls Andover, Massachusetts home. Wilma never had the opportunity (or inclination) to talk to, never mind meet Pebbles. Betty's last will and testament leaves everything to Barney.

At their deaths, Wilma and Fred owned their home as tenants by the entirety. They also owned a beach house in Florida, which they recently purchased, and this was where they were going to stay while on vacation. It was owned as tenants by the entirety. Unbeknownst to the others, Wilma and Barney had purchased a residence in upstate New York, which they owned as joint tenants. (It was, however, purchased entirely with Wilma's money.) Wilma owned a ton of Hummel Plates, as well as a certificate of deposit worth \$40,000. Fred had a fully paid up 1967 life insurance policy naming Wilma as the beneficiary.

Who gets what? Why?

QUESTION THREE

Bambi and Bob, husband and wife (actually, to be technically correct in the gender sense, they were wife and husband), owned their Chelsea, Massachusetts residence as joint tenants. They had three children, Paul, Paula, and Paulette. Life was pretty stable and predictable until the day in the Summer of 1981 when Bob left Bambi for no good reason to take up house with a no-good tramp named Wendy LaTramp, who subsequently became pregnant, giving birth to a bouncing baby boy which they named Rufus LaTramp.

Bob felt that Wendy's pregnancy gave him a chance to start fresh, so, while on the way to the delivery room, Bob stopped by his lawyer's office and, with Wendy howling in the back seat of Bob and Wendy's Toyota Land Cruiser, Bob made a new will. The will was witnessed by Bob's aunt Rita and his nephew John, Bob's brother Bill's oldest child. What they were doing in the law office at that time will forever remain a mystery. Well, not forever. Rita was a secretary there, and John had stopped by to pick her up to have lunch at a local bistro.

Bill proceeded to drown in a freak kite-flying accident on a beach in Nantucket. He was survived by his two children, John and Samantha. After Bill's untimely death, Bob sold the stock he had in Happy Holidays Inc., to help pay for Bill's internment expenses. He deposited the \$20,000 of sales proceeds in his bank account, waiting for the word from Bill's bereaved (and now available, Bob realized) widow Nancy to ask for the money. She never got the chance to, because a bolt of lightning struck and killed Bob and Samantha at Bill's rain-soaked funeral. It seems Uncle Bob had taken Samantha aside during the proceedings to ask if there was anything he could do for her in this most trying of times. Thank heaven someone had the good sense to tell the remaining mourners to come in out of the rain.

When the smoke cleared (this is a joke, get it?), the total amount available from Bob's probate estate consisted of \$30,000 in his bank account.

Bob's will, which was admitted to probate in Suffolk County Probate Court, provided in part as follows:

1. I give \$20,000 to my wife Bambi, if she survives me.
2. I give \$20,000 to each of my children who survives me.
3. I give \$20,000 to my Brother Bill.
4. I give all of my stock in Happy Holidays, Inc. to my good friend Bertha.

5. I give my real estate to my really, really close friend Wendy. (emphasis in original)

6. I give the Land Cruiser to my aunt Rita.

7. I give the residue of my estate to a charity for homeless ex-Major League baseball players.

Who gets what, and why?

QUESTION #1

Anita Bonita was a happily married (but just wait a few paragraphs) waitress working in a greasy spoon in downtown Lawrence, Massachusetts. She was one of those usually happy people, always smiling, always humming a tune. One of her favorite songs was a Neil Young tune entitled "Unknown Legend," whose lyrics went as follows:

She used to work in a diner, never saw a woman look finer
I used to order just to watch her float across the floor....

And you know, life really is what you make it, so Anita had every right to be happy. She loved her husband Barry, he loved her, she had her health, and they had three lovely kids, Gary, age 17, Tessie, age 13, and her little baby Paolo, age 10. The Bonitas lived in a small but well scrubbed cape style house (which they owned as tenants in the entirety) in one of the better sections of Lawrence, and Barry worked nights at the Raytheon plant in Tewksbury as a welder. Between the two of them, there was never enough money (who ever does have enough money, anyway?), but the kids were well fed and clothed, and they even were able to go on a family trip to Disney World a few years back, when Barry's mother died and left them a small inheritance.

I was over the house a couple of months ago for dinner, and I gotta tell you, Anita still had pictures on the refrigerator of the Disney trip. Everybody looked so healthy and happy. By the way, Anita makes a mean bouillabaisse, you really ought to have asked her for the recipe years ago. That is, if you like bouillabaisse. Some people don't. You might be one of them.

Doesn't it never cease to amaze you how deceiving appearances can be?

Here comes the hard part. And I am really sorry if I start speaking fast, but I just have to tell you this and get it over with, because it is just too bizarre for words. I got a phone call last night from Gary. He told me the following things:

1. He recently got married because he got a girl pregnant. His parents don't know a thing about it, because it was a small ceremony, and he still lives with his parents, she still lives with hers. He says he is in love with the girl. I forget her name.
2. His father killed his mother last night, after he finally confessed that he had a child out of wedlock 5 years ago with a married woman who also worked nights at Raytheon. This caused Anita to throw the boiling hot (and, as I have mentioned, very spicy) bouillabaisse at Barry, who was appropriately scalded, and who then in a rage threw both Anita and the bouillabaisse out the window.
3. Anita had a child out of wedlock also, but this was before she met Barry, and the child was raised by Anita's parents, who told everyone who was insensitive enough to

ask that the child, named Wanda, was truly Anita's sister.

4. Barry, unable to live without his beloved wife (really, truly, the only love of his life) committed suicide immediately after (well, not immediately after, see 7, below) seeing that his wife did not survive being tossed out the window. (You ask yourself, how did he commit suicide? I ask you, why would you ask that question? Of what relevance is it, or are you just interested, because for you how people meet their demise is always interesting?)

I am not going to provide you with a cheap thrill by detailing Barry's selected method of life termination. I will tell you that Barry had, coincidentally, just that day bought a burial plot, leaving \$2,000.00 in an account which he owned jointly with Anita, but which only he funded.

5. Years ago, Anita established a revocable trust which she told Gary about just days before she died, and in the trust Anita confessed that she had never gotten over not owning up to motherhood of Wanda, and thus anything left in the trust after she died would go to Wanda for her life, then to the American Heart Association for 200 years.

6. Anita's trust had been funded with a secret \$1 million dollars which she had won from Publisher's Clearinghouse. She of course never told Barry about this trust.

Imagine what Barry would have done if he had known!

7. While Anita left no will, Barry did (well, kinda). He washed the bouillabaisse from his hands and face (and washed a fair amount of skin away, I might add, because the bouillabaisse was very hot), and, screaming in pain, wrote in blood on the bedroom wall:

I leave everything to Gary. He'll know what to do with it.

8. Believe it or not, Barry signed his name on the wall, and had Paolo and Tessie sign as witnesses. (Paolo and Tessie signed in pen, on a sheet of paper, which Barry then stuck to the wall with a piece of scotch tape.)

9. One last thing. After he told me this, Gary shot himself.

Can you blame him?

WHO GETS WHAT?

QUESTION 2

Ed was your typical teenager back in the 1970's. He loved fast cars, and fast women, though he new absolutely next to nothing about either, and quite frankly, was afraid of both. He worked at the local dry cleaning establishment, which specialized in "Martinizing" clothing, and would while away the hours listening to his favorite rock group, the Bay City Bombers (well, actually ABBA was his secret fave, but he could not remain as totally cool as he was back then if he were to admit this publicly).

An aside. His twenty year old son, Sean, now also works in a dry cleaning establishment, dreams of fast women and faster cars, and listens to his favorite group, Toad the Wet Sprocket. No kidding. Here's a sample of some lyrics:

"How can I rely on my good intentions,
When my head's full of things that I can't mention?"

That's a good question, Mr. Toad.

Sean, by the way, does not know that Ed exists -- and vice-versa. The reason for this is that one day, about 21 years ago, this well dressed lady came into the place where Ed worked -- it was closing time -- with ketchup all over her housedress. Her name was Selena. She told Ed that he would have to martinize that housedress right then and there, because her husband Bob was due home in less than one hour, and he hated ketchup -- the smell, the color, the consistency, everything -- so he had to hurry.

As you can imagine, one thing led to another.

After Selena left, Ed did the only thing he could think of doing. He knelt down on the cold hard floor of the dry cleaning establishment and prayed to God that he would not go to HELL for what he had just done. Finished, he mopped his brow, locked up, and on his way home stopped at Burger King for dinner.

He probably would have stopped at Boston Chicken instead, but it did not exist back then.

Another aside. After he graduated law school, Ed worked for the trust department of a large law firm, which caused him to meet the cratchety old Mrs. Moolah Rouge, who took an immediate liking to him, and who named Ed trustee of her \$5 million trust. More about this trust later. The reason I mention this now is that Ed invested the half of the trust funds in the stock of Boston Chicken.

It's funny how life works.

At the Burger King, Ed got to thinking about how life is so fleeting (and about

of Moolah Rouge's trust, which had the following provision in it:

The trustee must invest only in safe and prudent investments, and shall be further limited to investing only in stocks of companies engaged in either biomedical research or computer software and applications.

Ed made gobs of money for the trust on the Boston Chicken investment. He also invested \$10,000.00 in a chinchilla farm, which went bankrupt last year. He actually broke even on the rest of the trust portfolio he invested in safe and prudent investments in the biomedical and computer businesses.

Ed committed suicide two days ago. No one knows why. He left a stamp collection, a Car & Driver magazine collection, a motorcycle, and \$5,000.00 in cash.

WHO GETS WHAT?

MASSACHUSETTS SCHOOL OF LAW

WILLS AND TRUSTS

PROFESSOR JOSEPH DEVLIN

FALL, 1995

FINAL EXAM

INSTRUCTIONS

There are two fact patterns on this final exam. You have 1/2 hours to answer each question, no more and no less. For the first 1/2 hour of each question, you are requested to outline your answer in the bluebook provided. The outline will be collected but not graded. You may not begin writing your answer to either question until the 1/2 hour has elapsed. You will be instructed when to begin writing the answer to each essay question.

My wife and I and our adorable kids wish you a safe and happy holiday season!

There are three essay questions on the examination. Allocate your time between the three questions equally. Grading will be weighted accordingly. This is a closed book exam.

I

1. In 1985, Ann, an elderly widow and a resident of the State of Panic, duly executed a will having the following dispositive provisions:

1. I direct that the person serving as my nurse at the time of my death have free use and occupancy of my residential premises for two years following the date of my death.
2. I give and bequeath all my jewelry to my daughters, Amy and Wendy, to be divided in accordance with a letter I have written and filed in my top dresser drawer with such jewelry.
3. I give and bequeath the residue of my estate to be divided of as follows: one-third to my daughter, Amy, one-third to my daughter, Wendy, and one-third to my son, Tom. If any of my children shall fail to survive me, such child's share shall pass to such child's issue, by right of representation.
4. I give and bequeath \$10,000 to my friend Joe, knowing that he will use it in trust to care for my dog, Velveeta.

Shortly before her death, Ann duly executed a codicil having the following relevant provision:

I hereby revoke the one-third share of my daughter, Wendy, granted to her by paragraph 3 of my Last Will.

Ann has recently died. While the codicil and Will have been found, no letter regarding her jewelry has been found.

At the probate hearing, the following claims are made:

1. The nurse caring for Ann at her death wishes to remain in the house for two years as specified in the will. The children want the house sold immediately and the proceeds added to the residue.
2. Tom claims that he is entitled to one-third of the jewelry, but Amy and Wendy have agreed on a plan of distribution between the two of them and are resisting Tom's claim.

3. Wendy's children are claiming Wendy's one-third share, as are Amy and Tom.
4. Everyone is claiming that the bequest to Joe invalid. Joe disagrees.

Discuss the theories upon which the various parties are making their claims and indicate how you believe each of the claims will be disposed of by the court.

II

Tom Parsons is the star pitcher for a new baseball franchise, the Andover Allstars. The Allstars are in the National League and have just defeated the Los Angeles Dodgers in a playoff series, thereby earning the right to play the Boston Red Sox, the American League champions, in the World Series. It is known that because of the seating capacities of the Boston and Andover stadia and because of the price scale of the tickets, each player on the winning team will receive a bonus of \$20,000, and each player on the losing team will receive a bonus of \$10,000.

Two days before the World Series, Tom executed a document which read, in the relevant part, as follows:

I hereby declare myself Trustee over my World Series bonus, such trust to be for the benefit of my brother, Edward, until he reaches the age of twenty-five.

The successor Trustee named in the document was Tom's father, Charles Parsons.

Tom pitched brilliantly in the first game of the World Series, and Andover won the game, 1-0. However, the next day, Tom was tragically killed in an automobile accident. The dispositive provisions of Tom's fully executed will read as follows:

1. \$100,000 to my Trustees, hereinafter named, to be held as a special trust fund which cannot be alienated, for the benefit of my two sisters, Jane and Anna, because I want them to remain unmarried.
2. The rest and residue of my estate to my wife, Nancy Parsons.

The Allstars went on to win the Series, and players voted a full \$20,000 to Tom, posthumously. However, the management of the Allstars baseball team is holding the entire bonus in escrow, because it is faced with conflicting claims by Charles (as successor Trustee) and Nancy (as residuary legatee). In addition, Nancy also claims that the trust created by paragraph 1

of the will should fail, thereby causing the \$100,000 allocated thereto to become part of the residue. Jane and Anna, model citizens, have agreed among themselves to terminate the trust and split it 50-50.

How should these conflicting claims be decided? Discuss.

III

You are the newest associate in a medium sized law firm and have been asked to review the draft of a will prepared by J.J. Jones, a former associate, who left the firm under delicate circumstances. The client, Trump, is a 55 year old widower. You are asked to recommend any changes, additions or deletions that in your opinion are necessary or desirable. Your recommendation should spell out in some detail: a) what was wrong with the original draft, b) what the result would be if the error was not remedied and c) why your alteration solves the problems Trump's will follows:

Know you all by these presence that this is the Last Will and Testament of Tory Trump.

A. To my good friends Mike Snide, George Alter and J.J. Jones, I bequeath \$20,000 each.

B. To my sister Velma Trump Loren, I bequeath and devise my roll-top desk and its contents.

C. I bequeath and devise all my personal effects to my executor, J.J. Jones, to be distributed to the persons specified in a letter to him which will be found in the same envelope as this Last Will and Testament.

D. I bequeath and devise \$10,000 to my executor, J.J. Jones, in his discretion to distribute the same in such manner as shall best carry out the wishes I have expressed to him.

E. I bequeath and devise \$10,000 to my sister Imelda Trump Loren, to distribute among such of my friends as she chooses.

F. The rest residue and remainder of my estate I bequeath and devise to the Fidelity Trust Co. in trust, to pay the net income quarterly to my sister Imelda Trump Loren, and on her death to her children, said children to divide the principal if and when they reach age twenty-one.

G. I intentionally make no provision for my only child Terry Trump, as her sinful behavior has brought only shame to our family name.

H. In the event that anyone contests this will for any cause, I hereby direct that they receive nothing from my estate, whether under this will, or, if this will is declared invalid in part or in whole, under the laws of intestacy.

I. I hereby swear, under the pains and penalties of perjury, that this is my Last Will and Testament.

s/Tory Trump

S/Alice Andrews (witness)
S/Bruce Blake (witness)
S/Mike Snide (witness)

I, Tory Trump, name my friend J.J. Jones executor of my estate and direct that he serve without posting bond or sureties. further direct that he serve as attorney for estate.

WILLS QUESTION

In 1990, Jane married Jim when she was 25, and he was 27. They had no children together, believing that the world was a miserable place, and they were determined not to add to the world's problems. (Jim did have a child he did not know about, a boy named Roger, the result of a college dalliance). They did have a pet bulldog, Archie. Both Jim and Jane had large extended families, and both of their parents were (and are) still alive. Jim and Jane liked to go hiking, but one day in 1992, they were set upon by some crazed, moonshine-drinking, no-teeth hillbillies, and they were lucky to escape with their lives (they did, however, sacrifice much of their dignity in the ordeal).

So, when they recovered, Jane went to their lawyer, who drafted her will. Jane's will read in pertinent part as follows.

1. I leave half of my estate to my husband, Jim. If he fails to survive me, then this share shall go to his brother, Tom.
2. I leave the other half of my estate to my sister, Janice, and if she fails to survive me, then to her kids, Tina and Tony.

Jane signed the will in her lawyer's office, and the will was witnessed and signed by Janice's daughter Tina and by the lawyer who drafted the will, Rickey Rouse (Tina worked as a paralegal in Mickey's office, if that's important to your understanding of the story line). Attorney Rouse had prepared another will, in 1988, for Janice, which was duly executed and provided that everything would go to her brother, Todd.

Two years after Jane's will was signed, Jane and Jim had a big fight (it was all a misunderstanding, as you will see), and got divorced.

They both dated other people after the divorce, but happened upon each other by chance in the cookie aisle at the Market Basket in Andover, got to talking, hashed things out, and were remarried two months later.

Jim was in Arizona on a business trip in late 2003, and got bored while sitting on the tarmac in Phoenix. So, since he had wireless access, he downloaded a form will and typed in provisions leaving \$20 to his wife, \$5,000 to the first child of Tom to reach the age of 25, and everything else to the American Red Cross. He was able to print it right on the plane. And then he signed it and put it in his briefcase.

Nine months to the day of their remarriage, they were blessed with a child they named Joey. To celebrate, they decided to go camping in the Arizona desert, leaving little Joey with Auntie Janice. The hillbillies found them again, and this time, Jane and Jim were not so lucky. They were found two weeks later, both of them having expired due to hypothermia (it does get cold in the desert at night, you know). Outside of a few belongings, the only thing found on Jane was a little piece of paper, handwritten in what appeared to be blood, which said, "I want 1988 to stand, because of DRR!" It had her signature.

signature.

They also found a piece of paper in Jim's pocket. It read, in its entirety, "This is awful. I hate hillbillies, and I hate Joey. I give everything to the American Cancer Society!"

Tom died last week, a lifelong resident of Massachusetts (he never got west of Fitchburg), leaving a grieving widow, Martha, and two children, Sara and Barney, ages 17 and 19, respectively. Tom's will left \$20,000 to Sara, \$10,000 to Barney, and the remainder to his wife. Tom died owning a house in joint tenancy with his wife (market value of \$300,000, with no mortgage), a pension, and \$8,000 in cash.

Really, a sad story. So,

WHO GETS WHAT, AND WHY?

SIGNATURE

DATE