

THE UNIVERSITY OF BRITISH COLUMBIA  
PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – APRIL 2020

LAW 452.001  
Succession

Adjunct Professor Simi Dosanjh

**EXAMSOFT PASSWORD:**  
**EXAMSOFT RESUME CODE:**

**TOTAL MARKS: 100**

**WRITING TIME ALLOWED: 3 HOURS, 20 MINUTES** (inclusive of reading time)  
**PREPARATION TIME ALLOWED: 10 MINUTES**

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If you think you have discovered an error or potential error in a question on this exam, please make a realistic assumption, set out that assumption clearly in writing for your professor, and continue answering the question.

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**MARKS**      **QUESTION 1**

**50**      Jay Pritchett is 70 years of age and resides in Vancouver, BC. He suffers from chronic lung disease and is very worried about the COVID-19 pandemic and the effects the disease could have on his health.

Jay is not married or in a marriage-like relationship. His second wife of 15 years, Gloria, passed away last year. Gloria had one child, her 21-year old son, Manny. Although Manny is Jay's stepson, they enjoy a very close relationship and Jay has always treated Manny like one of his own children. Jay also has two adult children from a previous relationship, Claire and Mitchell, who have not spoken with each other since Gloria's funeral when Claire called Mitchell a "drama queen". Jay has always treated both of his children equally.

Since Gloria's death, Claire's presence in Jay's life has increased significantly. He relies on her to arrange doctor's appointments, organize home maintenance and repairs, and even manage his finances. She is in daily contact with Jay and is involved in most decisions that he makes. Since she was young, Claire has always had a domineering personality, and since Gloria's death, she has become more controlling and aggressive in her interactions with Jay.

Jay never seriously thought about estate planning until he began having conversations with friends who were becoming concerned about their own estates as a result of the pandemic. He told one of his friends that he too was becoming worried and wanted to create a will, but he was too paranoid to meet with a lawyer in person. Recently, Claire had also become insistent that Jay create a will and get his finances in order and decided to introduce him to her financial advisor, Karim, over a Zoom video conference. Claire suggested that the video conference would also be a good opportunity for Claire and Karim to act as e-witnesses to Jay's will.

Jay's estate consisted of the following assets:

(i)	An investment account at the Bank of Vancouver	\$3,000,000
(ii)	A house in Kitsilano	\$2,500,000
(iii)	All of the issued and outstanding shares of JayGlo Inc.	\$1,400,000
(iv)	An art collection that included a valuable Warhol painting	\$800,000
(v)	A custom Patek Philippe watch	\$200,000
(vi)	A collection of Persian rugs	\$150,000

Jay accrued a significant amount of his wealth over the course of his relationship with Gloria and he was the sole beneficiary of her estate. Together, they grew

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**Question 1 continued...**

their impressive art and rug collections, and purchased their dream family cottage in Halfmoon Bay, B.C., the sole asset of JayGlo Inc. Jay's only debt is a \$200,000 mortgage secured against his house.

During Jay's video conference with Claire and Karim on March 20, 2020, Jay wrote his will in a Word document on his computer, with input from Claire and Karim. He later saved the document on a blank USB flash drive. In part, the will read as follows:

*This is the last will and testament of me, Jay L. Pritchett. My daughter, Claire Dunphy, shall be the executor of my will.*

*My estate shall be distributed as follows:*

- 1. I leave the balance of my Bank of Vancouver bank account (account number 456987) to Claire.*
- 2. I leave my cabin at 101 Secret Road, Halfmoon Bay, B.C. to my son, Manny Delgado.*
- 3. I leave to each of Claire and my son, Mitchell Pritchett, fifty percent of the residue of my estate.*

*Made during the COVID-19 pandemic. Written with Claire and Karim Shivji.  
- Jay L. Pritchett*

A few days later, Karim and Claire again called Jay and advised him that due to the market downturn, he could buy high quality stocks at a significant discount. They convinced Jay to move his banking portfolio to an account at Karim's investment firm, Investco. The Bank of Vancouver account was soon closed and the assets transferred to Investco. While the Investco account continued to hold some of the same stocks as before, the account also held cash and some new stocks. Jay deposited his pension cheques into the account from time to time when Karim and Claire would alert him to new investing opportunities. He also withdrew some funds to help his neighbor make her rent payments for three months. Aside from those transactions, Jay largely left the management of the account to Karim and Claire and did not pay much attention to the balance.

Over the next couple of weeks, Jay began receiving calls of concern from Mitchell and Manny, who were worried for Jay's health and wanted to ensure that Jay was following the recommended safety measures. They were also

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**Question 1 continued...**

concerned that Jay was losing his independence and relying too much on Claire, so they began checking in with him more frequently.

Jay began to reconsider the dispositions he made under his will, and wondered whether the distribution would be unfair to Mitchell and Manny. On April 12, 2020, he placed the USB flash drive containing the March 20<sup>th</sup> will in an envelope with the following words written on it: "*Destroy? Make a new will if advisor agrees it is a good idea at next Zoom meeting.*"

Jay and Karim had a brief chat about the markets the next day, but did not discuss Jay's will. On April 15, 2020, Jay printed a copy of the March 20, 2020 will, and made the following notation at the end of it:

*I wish to treat my children fairly equally upon my death. To meet this objective, I direct my executor to transfer my house in Kitsilano to Mitchell and my Patek Philippe watch to Manny. The residue should be divided equally among my children. The rest of my will stands as it is.*

Jay placed the document with his handwritten note in an envelope marked with his initials and the words, "*Last Will and Testament*". The envelope was placed on his fireplace mantle along with the envelope containing the USB flash drive. He did not mention the existence of the April 15, 2020 document to anyone.

While gardening the next morning, Jay was bitten by a poisonous spider and died instantly. Mitchell found the envelopes on Jay's fireplace mantle and phoned Karim, who advised him that he recalled Jay writing his will during their video conference, but does not remember if Jay had signed it.

Discuss the legal issues arising in respect of Jay's estate.

**END OF QUESTION 1.**

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**QUESTION 2**

Johnny and Moira Rose lived in a small B.C. town with their adult children, David and Alexis. They occupied two suites in the town's only motel, of which Johnny was an owner-operator. In a former life, Moira was a soap opera star and had dreams of returning to the big screen. One year ago, she played a lead role in a feature film that did not fare well with the critics and was ultimately cancelled by the production company.

As a result, Moira fell into a deep depression and spent most of her time locked inside a small closet or huddled in her bed. She would often become incoherent and frequently could be overheard talking to herself about conspiracy theories. She believed that her costume wigs, "Kristen", "Robin" and "Maureen" were trying to ruin her life and her career. While everyone in the town knew Moira to be eccentric, her family and friends were very concerned for her mental wellbeing.

Despite the troubling changes to her mental health, Moira was able to answer questions of ordinary matters without any difficulty. For example, during routine visits by the motel manager, Stevie, Moira could always remember the day of the week and when the bed linens were last changed, and could recount what items of clothing and footwear were missing from her closet each day that Alexis borrowed something.

Approximately one year ago on May 1, 2019, Johnny had his will prepared by his lawyer, Bud. Johnny's will was fairly simple and left his entire estate to the trustee of the Johnny Rose Trust, which was established in 2015 and named David as the sole beneficiary of the trust assets on Johnny's death. The trust deed gave the trustees the power to amend or revoke the trust; however, these powers were never exercised and no changes were ever made to the trust. Johnny's most valuable asset was a 33% interest in The Rosebud Motel Group Inc., a B.C. corporation.

Moira had also commenced discussions with Bud regarding her will at the same time that Johnny had his prepared. However, due to the onset of her mental health issues, she did not confirm or finalize any matters with respect to her estate plan at that time. In February, 2020, Moira contacted Bud to finally have her will prepared, stating that she did not want "those conniving costume wigs" to get everything she had worked so hard for. Since Moira refused to leave her room, Bud took her instructions over the phone and prepared her will that same day. It was executed by Moira on February 24, 2020 in the presence of the town mayor, Roland, and his wife, Jocelyn. There was no evidence that Bud made any inquiries regarding Moira's understanding and appreciation of what she was doing when she gave him instructions and executed her will.

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**Question 2 continued...**

Moira's will had the following dispositive provisions:

1. *To the members of the women's cappella singing group, the "Jazzagals", I leave my shares in Rose Apothecary Inc. in equal shares per capita for their sole use and benefit absolutely.*
2. *I leave 1/20 of my wig collection to each of Alexis and Stevie; and the remainder of my wig collection to six charities of my executor's choice, each of which shall receive a 1/10 portion of the wig collection.*
3. *I direct my executor to distribute the residue of my estate to Johnny, if he survives me. If Johnny does not survive me, I direct my executor to distribute the residue of my estate to Alexis PROVIDED THAT if my son, David, is no longer in a romantic relationship with his husband, Patrick, then I direct my executor to distribute the residue of my estate to Alexis and David in in equal shares per stirpes.*

*I have always loved my son, but I do not wish to leave him any assets from my estate as long as he remains in a romantic relationship with Patrick.*

Moira and Jocelyn had become friends and on several occasions, Moira had mentioned to the local restaurant owner, Twyla, that she wanted to do something nice (but small) for Jocelyn, who was always very kind to her. On the date of Moira's will, Jocelyn and four other women were the only members of the Jazzagals. Rose Apothecary Inc. was managed and co-owned by David (30%) and his husband, Patrick (50%). It was always David's expectation that Moira would gift or sell her shares in the company to David so the apothecary could continue to be controlled by the Rose family. The Rose family had a strong sentimental attachment to the company, although it was historically of little financial value.

On April 20, 2020, at the town's annual fundraiser, "Asbestos Fest", Johnny surprised Moira with a hot air balloon ride. Tragically, the hot air balloon crashed and everyone on board, including Johnny and Moira, were found dead at the scene of the crash by a search party the following morning. At the time of their death, Johnny and Moira held the following assets:

- i. Moira's wig collection
- ii. Moira's shares of Rose Apothecary Inc.
- iii. Moira's first life insurance policy naming Johnny as beneficiary

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**Question 2 continued...**

- iv. Moira's second life insurance policy naming Alexis as beneficiary
- v. Johnny's shares in The Rosebud Motel Group Inc.
- vi. A savings account owned by Moira and Johnny jointly with a right of survivorship

When David learned that he was not a beneficiary under Moira's will, he became very upset. He was convinced that the only reason he was left out of her will was because of his same-sex relationship with Patrick, which he always thought Moira viewed unfavorably due to her devout Catholic upbringing.

David was also troubled that his mother left all of her shares of Rose Apothecary Inc., representing 20% of the votes and value of the company, to the Jazzagals. The company had, for the first time in its history, reported a significant profit that David had only learned about from their accountant the day before Asbestos Fest. Two of the members of the Jazzagals had predeceased Moira. One of them was survived by two children, while the other had no children.

Alexis was 30 weeks pregnant at the time of Johnny and Moira's deaths.

Discuss the issues arising in respect of Johnny and Moira's estates.

**END OF EXAMINATION.**