

QUESTION 1
(One hour)

Susan signs a Will at her attorney's office in front of her attorney and his secretary on June 1, 2012. Under the terms of the Will, her residence is to be distributed to her daughter, Jane; \$50,000 is to be distributed to her best friend, Trisha; \$50,000 is to be distributed to her sister, Nancy; and the rest and residue of her Estate is to be distributed to her son, Carl. Susan has nominated her son, Carl, to serve as Executor. On December 20, 2016, Susan passed away unexpectedly.

What is the effect of the following: Explain your answers. Each subquestion is independent, e.g., facts in A do not apply to B, etc.

1. During the will execution ceremony, the attorney's secretary was busy sorting papers and neglected to sign the attestation clause.
2. Carl, while going through his mother's important papers following her death, he found a note in his mother's handwriting. The note consists of a list of personal property owned by Susan, each containing a person's name next to it, e.g., "Apple painting: Jane," "China set: Carl."
3. Trisha predeceases Susan and leaves a son, George, that survives Susan.
4. After Carl filed his Petition for Probate, several creditors filed large claims against the Estate. Carl is not sure if there is enough in the Estate to pay all the debts.
5. On her original Will, Susan crossed out Trisha's gift of \$50,000 and wrote \$75,000 next to it.

QUESTION 2
(One hour)

Pete, an owner of a \$20 million widget company, executed a Revocable Living Trust which contained the following relevant provisions:

“Distribution of Trust Estate:

(a) Upon my death, the trustee shall distribute one-third (1/3) of my trust estate to my employees that survive me in equal shares; one-third (1/3) to my son Todd, in trust, to be administered pursuant to the provisions of subparagraph (b) below, with the remainder to be distributed upon his death to my granddaughter, Mia; and one-third (1/3) to Sonoma Humane Society.

(b) Trust for the Benefit of Todd:

For the life of Todd, the Trustee shall pay to or for the benefit of Todd, so much of the income and principal of this trust set aside for the benefit of Todd, as the Trustee, in the Trustee’s sole discretion, deems advisable for Todd’s health, maintenance, and support.”

“No interest of any beneficiary in the income or principal distributable under any trust created by this Trust Agreement shall be subject to voluntary or involuntary transfer, nor shall such interest be subject to anticipation or assignment by any beneficiary, or to attachment by or to the interference or control of any creditor or assignee of any beneficiary, or be taken or reached by any legal or equitable process in satisfaction of any debt or liability of any beneficiary.”

“Nomination of Successor Trustee: I nominated by son Todd as successor trustee of this trust. If Todd is unwilling or unable to serve as trustee, then I nominate Smart Bank of Santa Rosa, to serve as successor trustee.”

Pete died and was survived by Todd and employees of the widget company. Sonoma Humane Society has merged with three other Humane Society organizations and is now known as the Humane Society of the North Bay.

Todd is not great with money. He has credit card debt, a judgment against him for an old car loan, and he owes spousal support to his ex-wife.

Discuss the issues presented by this fact pattern.

QUESTION 3
(One hour)

Trudy is a 70 year old divorced mother of three children, Tanner, Tracey, and Thomas. Thomas has always lived with Trudy, never having really lived independently of Trudy. He is unmarried, does not work, pays no rent, and until recently, spent most of his days on the front porch of Trudy's house. Tanner and Tracey are both doctors that work long hours and have families of their own.

Trudy was diagnosed a couple years back with Multiple Sclerosis. While mentally she is still capable, she is now 100% dependent on Thomas. She cannot write, administer her own medications, or even wheel her own wheelchair. About six months earlier, she made Thomas co-trustee of her trust. Thomas now manages all of Trudy's finances, including paying all of her bills. He also administers her medications, cooks for Trudy, and handles all other aspects of caregiving.

Tanner and Tracey visit when they can. Lately they have noticed that Thomas is wearing new clothes, has new gold chains on his neck, and is driving a new sports car. Thomas complains often to Tanner and Tracey about how hard it is to care for their mother and that his siblings do not understand the sacrifice he is making.

The trust contains the following provision: "Insofar as may be permitted by law, no Trustee shall be liable for any act or omission in connection with the administration of the trust herein created, or the exercise of any of the powers and discretions hereinbefore provided for, nor for any loss or injury to any property held in or under said trust, except for his or her actual fraud."

Discuss the issues presented by this fact pattern.