

EMPIRE COLLEGE SCHOOL OF LAW
Professor DeMeo
Wills & Trusts
Mid-term Fall 2009
December 16, 2009

QUESTION 1 – 1 HOUR

Donald and Daisy were married in 1962 and have lived in California their entire lives. They were successful movie actors. They were independently wealthy when they got married. Daisy had \$2 Million in assets and Donald \$1 Million in assets on their wedding day. Donald also had a car collection worth \$500,000 when they got married. They had two children Huey and Duey.

After marriage they set up a joint bank account. Each put income from their separate assets into the account to cover household expenses. After 10 years of marriage their old movies became popular again. Each was asked by the movie studios to re-execute old expired contracts for residuals and royalties. They did. For the next 20 years they each earned significant money from the new contracts. Daisy amassed an additional fortune of \$10 Million, and Donald \$5 Million.

They each drew up wills in 1985. Donald's was a messy thing drafted in his messy handwriting on a bar napkin. It said:

“Mickey, If anything happens to me on a movie shoot I want Daisy to get one-half of my movie money. The rest will go to my sons. I have written down on another paper where I want my cars to go. I will go to a lawyer soon with this paper to draft a real will. /s/ D.” No date was on the paper.

Daisy's was a validly executed formal will all typed up nicely by a lawyer. Her will left nothing to Donald and everything to Huey and Duey.

Donald died in 2008 from a konk on the head by cartoon rubber mallet during filming of a movie scene.

The only other paper Daisy could find among Donald's belongings was a list of cars with directions to transfer them to certain persons. There was no indication that he went to a lawyer at any time.

A month after Donald died, Darla contacted Daisy and informed her that Darla's son Luey was Donald's child and that Donald knew of him from visits during the last two years of Donald's life. Luey is 15 years old and DNA shows he is Donald's son. It is discovered that Donald took out a life insurance policy on his own life with Luey as sole beneficiary.

Daisy comes to you for advice. She wants to know what rights she, Huey, Duey and Luey have in Donald's estate. Please advise. Use sound legal analysis in your response.

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QUESTION 2 – 1 HOUR

Darth, a wealthy old man who lived in California, died in 2008. He is survived by a niece Leah and a nephew Luke, the children of his dear sister Mabel who died in 1958. Over the years since Mabel's death Darth claimed that he could "speak" to her. Over time he thought she was visiting him.

Most of his assets are in California except for a parcel of real property in Montana. Darth made a will in 1962. The 1962 will leaves everything to Leah and Luke.

Hans and Chewy have been Darth's gardeners for 20 years. They are very aware of Darth's belief that his sister visits often. For grins Hans and Chewy played along. They told Darth that Mabel was visiting them regularly in the yard. One day in 1999, Hans told Darth with a chuckle that Mabel wanted Hans and Chewy to get the house because they worked so hard around there. Darth laughed and said, "Sure, hah! Yeah right!" They both chuckled as they parted company.

In 2001 Darth went to a lawyer to do a codicil to the will. He brought the will to the lawyer for review. He told the lawyer he wanted his entire estate to go to his sister Mabel. If she didn't survive him then his house will go to Hans and Chewy, his gardeners, and the rest of the estate to her kids Leah and Luke. He told the lawyer he frequently visits with his sister and wants her to have everything if she survives him. The lawyer asked no more questions and drafted the codicil which read in part:

"First: I revoke all dispositions in my 1962 will.

Second: I leave my house to my gardeners Hans and Chewy.

Third: I leave the rest of my estate to my sister Mabel. If she does not survive me then the estate shall be distributed to my niece Leah and my nephew Luke in equal shares.

Fourth: Mabel shall be executrix of this will. If she is unwilling or unable to act, then Hans shall be executor."

Hans comes to you for advice. As Executor he wants to know who will get what. Please advise. Use sound legal analysis in your response.