

Question 1 – Issue Outline

Issue Outline:

Simultaneous death statute (*10 points*)

Assets of Respective Estates (40 points)

Harry's estate consists of $\frac{1}{2}$ of the CP and all of his SP
Wendy's estate consists of $\frac{1}{2}$ of the CP and all of her SP.

Harry's estate consists of, presumably, $\frac{1}{2}$ the Santa Rosa house; $\frac{1}{2}$ the Florida house; and $\frac{1}{2}$ of the Schwab account

Wendy's estate consists of 100% of the Carmel house; $\frac{1}{2}$ the Florida house and $\frac{1}{2}$ of the Schwab account

Florida property is quasi-community property and is divided 50/50 just like regular CP

Distribution of Estate: (40 points)

CA follows Modern Per Stirpes

Harry's Estate will be distributed to Elfie, Frank, Gertrude, Harry III, and Ida in equal shares.

Under strict per stirpes (not California), E, F, G share in $\frac{1}{2}$ of Harry's Estate and Harry III and Ida share in the other half of Harry's Estate.

Wendy's brother, Sam inherits 100% of Wendy's share. Sam's children do not take.

Estate will be probated (*10 points*)

Question 2 – Issue Outline

Mental Capacity - Test for Capacity & Discussion (30 points)

Undue Influence - Mainconcept & Discussion (30 points)

- Caregiver statute does not apply to blood relatives
- Confidential relationship
- Unnatural disposition?
- No provisions for grandchildren? (children of estranged daughter)
- Period of estrangement - short?
- Attending meeting in attorney's office

Professional Responsibility (10 points)

- Duties owed to client and intended beneficiary

Preparing for a Contest (as discussed in the text) (30 points)

- Medical/psych examination
- Video or audio recording
- Witnesses (those that know testator/multiple lawyers and other professionals)
- No-Contest Clause and providing gift as a deterrence
- Advise client to let disinherited person know during their lifetime. Don't keep it a secret
- Meet with client alone and not with potential witnesses
- Letter to you in client's handwriting
- Including a phrase, "I have intentionally omitted my daughter Melissa."

Question 3 – Issue Outline