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COUNCIL OF LEGAL EDUCATION

EXAMINATION FOR ADMISSION TO THE ROLL OF ADVOCATES

REGISTRATION NUMBER:

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VENUE: Co-operative University

JKUAT

ATP102: PROBATE & ADMINISTRATION

Examination Series: April 2024

Date: 23<sup>rd</sup> April 2025

Time: 09:00AM-12:00PM

Duration: 3 hours

Instructions to Candidates:

- Enter your registration number and tick the exam venue in the space provided.
- Answer **FIVE (5)** questions, including question **ONE** which is **COMPULSORY**.
- Question **ONE** carries **20 Marks**. All other questions carry **10 Marks** each.
- Attempt each question in the space provided. Additional space is provided at the back of the booklet.
- Answers **MUST** be supported by relevant statutory provisions and case law where required.
- Do not write your name in the booklet.
- Ensure your handwriting is **LEGIBLE**.

FOR EXAMINER'S USE ONLY

Question Number	Examiner		Internal Moderator		External Moderator		Quality Assurer	
	Mark	Initials	Mark	Initials	Mark	Initials	Mark	Initials
1.								
2.								
3.								
4.								
5.								
6.								
Total Marks								



## QUESTION ONE

On 20<sup>th</sup> February 2024, Mr. Kwaheri while taking a stroll in his expansive farm, overheard a heated discussion between two of his sons, James and John, who were supposedly feeling frustrated that their father, whom they disparagingly referred to as “that old goat”, had taken like forever without dying so that they could inherit part of his wealth. Kwaheri felt very pained and cried bitterly over his sons’ level of disrespect towards him. He then swore that the two sons would never receive any share of his property even if he predeceased them. Thereafter, he rushed home and, despite the searing pain in his joints arising from the effects of the advanced rheumatoid arthritis, he wrote a will which was witnessed by two of his cousins, Mzee Mwinyiheri and Mzee Kombo.

Through the will, Kwaheri distributed his property to all his family members except the two sons, James and John, as well as his daughter Amina. For Amina, her dad was always paranoid with her in the belief that she had wanted to kill him. Kwaheri’s paranoia arose some few years earlier when he had been taken ill and got admitted to Tenda Wema Nursing Home in Malindi. During the admission, Amina often stepped in to relieve her elderly mother in taking care of their dad. One afternoon, as she struggled to turn her dad and make him lie in a more comfortable position, the dad woke up from his sleep and started screaming in the mistaken belief that Amina had been strangling him. Since then, he had always been very suspicious around Amina because he believed that she never meant well for him.

One evening, Mr. Kwaheri had a bitter disagreement with one of his wives, Jane. He felt that, lately, Jane had become too disrespectful to him. As a result, he felt very strongly that she did not deserve to inherit his property. He then went into the safe and picked a copy of the will and used a pen to cross out all references to Jane, as well as all bequests he had made to her. Thereafter, he also crossed out his signature but the writings still remained readable. He followed up his actions by trashing the will into the dustbin from where it was later retrieved by his wife Jane who kept it back in the safe. On that night, Mzee Kwaheri died peacefully in his sleep. Based on the above facts, and relying on relevant law and decided cases:

- a) Discuss the legal status of Kwaheri’s will. (10 marks)
- b) Evaluate Amina’s claim to her late father’s estate. (5 marks)
- c) After his death, it later emerged that on 20<sup>th</sup> February 2024, Kwaheri had acquired some 20 acres of land which he had intended to donate to Mji wa Furaha Children’s Home. As a result, he left it out of the list of his property which was distributed through the will. However, owing to his failing health, he failed to follow through with the intended donation and, by the time of his death, the same had not been passed to the Children’s Home.  
Distinguish the process of administration of this piece of land vis-à-vis the rest of Kwaheri’s estate. (5 marks)











