

**CASE STUDY MATERIALS**

January 2012  
Level 6  
PROBATE PRACTICE  
Subject Code L6-21

**ilex**

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**INSTITUTE OF LEGAL EXECUTIVES**

**UNIT 21 – PROBATE PRACTICE\***

**CASE STUDY MATERIALS**

**Information for Candidates on Using the Case Study Materials**

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to the case study materials. You will be required to answer all the questions on the examination paper.
- You should familiarise yourself with the case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss the materials with your tutor/s either face to face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relates to the case study materials.

**Instructions to Candidates Before the Examination**

- You will be provided with a clean copy of the case study materials in the examination.
- You are **NOT** permitted to take your own copy of the case study materials or any other materials including notes or text books into the examination.
- In the examination, candidates must comply with the ILEX Examination Regulations.

*Turn over*

\* This unit is a component of the following ILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

**ADVANCE INSTRUCTIONS TO CANDIDATES**

You work in the Private Client Department of Kempstons, The Manor House, Bedford, MK42 7AB (DX BD345987).

Your supervising partner and head of department is Marcus Wu.

You arrive at work to find the following awaiting your attention:

- DOCUMENT 1**      Extract from Attendance Note: Dated 4 January 2012  
Matter: Estate of Claudia Wilson deceased
  
- DOCUMENT 2**      List of known assets believed to belong to Claudia Wilson as  
compiled by Ronald Chapman 3 January 2012
  
- DOCUMENT 3**      Letter dated 21 December 2011 to Marcus Wu from Matthew  
Coleman
  
- DOCUMENT 4**      Memorandum from Marcus Wu dated 20 December 2011 Re:  
Simon Potter and Miranda Rogers
  
- DOCUMENT 5**      Information extracted from the file of Hilda Dorothea Waites  
deceased
  
- DOCUMENT 6**      Will of Hilda Dorothea Waites dated 25 March 2004



## DOCUMENT 1

**Extract from Attendance Note: Dated 4 January 2012**

**Fee Earner:** Marcus Wu (Case File Reference: Wu/W/2)

**Client(s):** Ronald Chapman ('RC')  
43 Rosewood Avenue  
Wimsford  
Bedfordshire MK36 5EF                      He is a retired banker.

**Matter:** Estate of Claudia Wilson deceased (sister of RC)

RC said his sister, Claudia Wilson, died on 1 January 2012, from a heart attack. She had a history of heart problems and was in hospital undergoing treatment when she died. She was born on 25 February 1949 and had given up work as a school teacher on medical grounds in 2001.

Claudia had previously been married to Brian Wilson, whom she divorced in 1993. They adopted a child, Marjorie, in 1984. Marjorie is now 32 and for the last ten years has lived with her Swiss husband, Rafael Havret, in Lucerne. They have no children.

RC has two other sisters, who both live in the south-west of England; Betty Jones (aged 66) and Phyllis Moody (aged 72). Both are married with children and grandchildren (RC can supply full details later if required).

Claudia's parents died many years ago. They had no other children.

Marjorie went to live with Brian shortly after her mother's divorce and since then Claudia had lived a very secluded life. She had little contact with her two sisters but would often meet up with RC, two or three times a year, mainly to discuss her portfolio of investments. Although she used the services of a financial adviser, she liked to have RC's views on whether her adviser had suggested the best means of maximising her investment income to enhance her pension.

Since she was unable to fly on medical grounds, Claudia had never visited Marjorie in Switzerland. She relied on Marjorie making the trip over to see her but according to RC her visits had become less frequent in recent years.

RC does not know if Claudia left a will. She never said she had one, although some time ago she did tell RC she was considering making a will and RC told her he would be willing to act as her executor if she did. There is no will with Claudia's personal papers in her house and Marjorie is also not aware of one. RC will make further enquiries at banks and local firms of solicitors which Claudia has previously mentioned as having used.

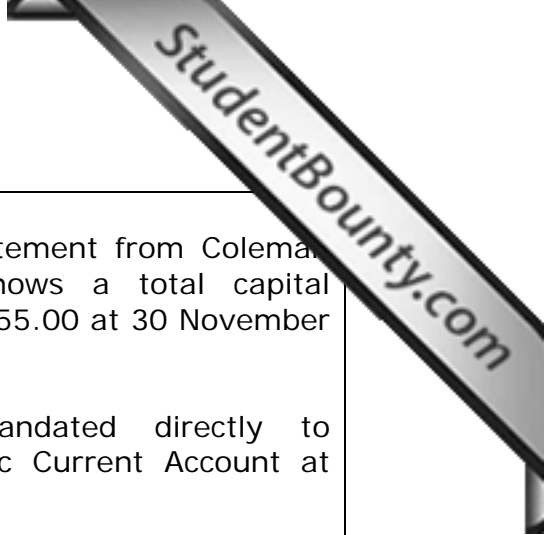
RC has made a list of what he believes to be Claudia's property (see **Document 2**). He wants advice about Claudia's estate but we are to do nothing until he contacts us again after the funeral next Monday, by which time he may be in possession of further information once he has spoken to Marjorie and his two sisters.

*Turn over*

**List of known assets believed to belong to Claudia Wilson as compiled by Ronald Chapman 3 January 2012**

Item	Notes
<p>Flat 5, Arnold Court, Pheasant Lane, Wimsford, Bedfordshire MK36 5RD.</p> <p>The property is leasehold (99 years from 1 January 1996) and she pays rent and service charges of £456 per quarter.</p>	<p>This is where she was living and Claudia had told me similar flats at Arnold Court sold for around £200,000 last year.</p>
<p>The Haven, Bennett's Lane, St Minerva, North Cornwall, PL27 6HJ.</p> <p>The documents in Claudia's writing desk suggest she bought this cottage in 1994 for £120,000. The money was obtained from Brian as part of her divorce settlement. She had the beneficial interest put into the joint names of herself and Marjorie.</p>	<p>Holiday cottage where she spent a number of months each summer and occasional weeks in winter.</p> <p>Claudia told Marjorie last June that she was unlikely to be using the cottage as much in the future and so they both agreed to sell it.</p> <p>The property is currently for sale in the hands of a local estate agent. The asking price is £300,000.</p>
<p>Retro Bank Classic Current Account</p>	<p>Last statement shows balance at 30 December 2011 as £3,657.00.</p>
<p>Retro Bank E-Saver Account</p>	<p>Last statement shows balance at 30 December 2011 as £28,325.00.</p>
<p>Rightguard Assurance Company Endowment Policy.</p> <p>This is on Claudia's life with a guaranteed death benefit of £30,000.</p>	<p>The policy documents show that Claudia assigned the benefit of this policy to Marjorie on 4 April 1994.</p> <p>Claudia's bank statements show she was still paying the premiums of £29.50 each month.</p>
<p>Premium Bonds</p>	<p>£25,000</p>
<p>National Savings Certificates</p>	<p>£10,000</p>

CASE STUDY MATERIALS



<p>Portfolio of investments (including quoted shares, corporate bonds, ISAs etc).</p> <p>The portfolio is managed by Coleman Investments.</p>	<p>A quarterly statement from Coleman Investments shows a total capital value of £346,555.00 at 30 November 2011.</p> <p>Income is mandated directly to Claudia's Classic Current Account at Retro Bank.</p>
<p>Personal possessions and house contents.</p> <p>(Claudia did not own a car)</p>	<p>At Flat 5 she had very modest furnishings and also some jewellery. Everything is probably worth no more than £6,000.</p> <p>This figure does not take account of any contents etc in the cottage in Cornwall, but there is nothing to suggest these are of any great value so as to increase this figure.</p>

*Turn over*

**Letter dated 21 December 2011 to Marcus Wu from Matthew Coleman**

45 Orchard Way  
Silverton  
Bedford MK16 7KN  
21 December 2011

Dear Mr Wu

I have made an appointment to see you in January regarding the recent death of my father, John Coleman. He died on 23 November and his estate is being dealt with by solicitors in Exeter, Devon who are acting on behalf of my half sister, Rosemary, who is the executor of his last will. I thought it might be helpful to put a few things down on paper before our meeting so that you are aware of the issues that might be involved.

Rosemary and I are Dad's only children. Rosemary's mother was Dad's first wife who was killed in action in 1944 towards the end of the Second World War. Rosemary was six years old at the time. Dad then married again in 1948. He was fortunate to meet Martha, who was the daughter of a Yorkshire industrialist and so quite well off. Two years after they were married, I was born.

My mother died in 2000 after an illness. By then, Dad had just turned 80 and he and Mum had been living in very upmarket sheltered accommodation for a few years close to where I lived. After Mum's death, Dad continued to live in the sheltered accommodation. He inherited all Mum's money and so had no problems financially speaking but he found it increasingly difficult to cope by himself. He had the services of carers who did a lot of what Dad called the 'women's work' for him but he began to rely more and more on my help. However, my job as a marketing executive meant that I was often away for lengthy periods and so paying him visits on a regular basis became a bit difficult.

It was around June 2004 that Rosemary suggested Dad leave his sheltered accommodation and move down to the farm in Devon which she and her husband had been running for the last 20 years or so. Whenever she could, Rosemary had made the trip up from Devon to visit Dad but leaving the farm was not always easy. However, since they had plenty of room in their farmhouse, there was no reason why Dad should not move there. This arrangement was ideal because quite apart from it being a better situation for Dad, it meant that Rosemary obviously saw more of him and it was still possible for me to visit him when work commitments allowed. Dad insisted on paying for his 'board and lodging' and so agreed with Rosemary that he would pay her a weekly amount to cover the cost of keeping him.

Shortly after losing Mum, Dad made a will giving everything to Rosemary and me equally and appointing us as joint executors. However, at Dad's funeral, Rosemary took me to one side and said that Dad had made a new will in May 2008. She showed me a copy and I was rather taken aback to find that this new will gave me £15,000 and everything else went to Rosemary. She said she hoped I would understand but apparently Dad had asked her to take him into Exeter to see a solicitor to change his will because he thought Rosemary needed his money more than I did. Rosemary took him to see the same solicitor which she and her

husband had used in the past. She went on to say that Dad was well aware of what indeed I had been, that she and her husband had been in financial difficulties since 2007 and they had problems making ends meet. They had borrowed considerably from the bank to finance their farming business but the economic downturn had restricted the growth in profits which they had hoped for – although things have picked up for them during the last year.

The solicitors in Exeter have since written to me to confirm my legacy of £15,000, saying that this is subject to Rosemary obtaining probate as the sole executor. Of course, they haven't said anything about the value of the rest of his estate but from what I know about Dad's investments, which he often discussed with me, it must be in excess of £200,000.

I have always got on well with Rosemary, although I can't say we have ever been that close. Perhaps it's the fact we had different mothers and there is 12 years between us and so we never really knew each other as children. However, I do resent what has happened and whilst I would like to respect Dad's final wishes, I can't help thinking that Dad has fallen for a sob story here. I was able to pay him a visit roughly once every two months or so and although he never mentioned that he had changed his will, I do recall him telling me on more than one occasion how tough Rosemary and her husband were finding running the farm. During one visit in 2008 I also recall him saying that I must be doing well given that I could only afford the time to see him every couple of months. I didn't tell him that my company was implementing a redundancy programme, which could have involved me, for fear of worrying him.

Shortly before Dad died, Rosemary and I decided that it would be best if he moved to a nursing home in Exeter. He had become rather frail and his frequent memory lapses meant that he really needed attention 24/7 which it was impossible for Rosemary to provide. The decline in his health was sudden but hardly unexpected for someone his age. Until the beginning of 2011, he was remarkably bright, knew what was going on in the world, studied the share prices daily and had a sensible opinion about most things!

When I see you, I would like to discuss Dad's estate because to me it just doesn't seem right what has happened.

Yours sincerely

*Matthew Coleman*

*Turn over*



**Memorandum from Marcus Wu dated 20 December 2011**  
**Re: Simon Potter and Miranda Rogers**

Yesterday I saw Simon Potter and Miranda Rogers to take preliminary instructions for new wills. They are away now on a winter break in the sun but I have arranged to see them again in January to take further instructions when I'm likely to ask for your help in advising on the options that might be available for them and any tax considerations to keep in mind.

They are an unmarried couple who have lived together for three years. They said they may decide to get married but there are no firm plans yet. Miranda and Simon are expecting their first child together in July and Miranda intimated this may be the start of a larger family.

Simon

Simon is 42 and has never been married. He was in a relationship several years ago from which he has a 12 year old daughter, Danni, who attends a private boarding school in Gloucestershire. Danni's mother married soon after the relationship broke up. In addition to Danni, Simon's other relatives are his two brothers (and their children) and his mother (his father died five years ago).

Simon owns a house which is free of mortgage and worth £500,000 and this is where he and Miranda now live. He has various savings and investments worth around £300,000 and also has pension provision in place. He said he earns around £100,000 a year as the director of an Academy.

Miranda

Miranda is aged 36 and was previously married to Alistair. She has no children. She has one brother (with three children) and both her parents are still alive.

Alistair was killed in car accident not long after they married ten years ago. She became sole owner of their jointly owned house and she also inherited all his other assets, although she says these did not amount to very much. After his death, Miranda was employed as a secretary before starting up her own business providing secretarial services. She has done very well and her accountant recently estimated her earnings for this year at £70,000 and valued her business at around £100,000. She sold her own house when she moved in with Simon three years ago. She invested the proceeds which are now worth about £800,000.

Their wills

Basically, they both want to benefit each other on death with ultimate entitlement on the survivor's death going to the child(ren) from their relationship. However, Simon also wants to make some immediate provision for Danni when he dies out of his own property. He has in mind a legacy of £200,000 and is not expecting Miranda to use her own funds for this.

Neither of them have made any gifts or been involved in any form of lifetime tax planning before and both say they do not see the possibility of being able to afford any lifetime dispositions for several years yet.



*Turn over*

## Information extracted from the file of Hilda Dorothea Waites deceased

<b><u>Full Name</u></b>	Hilda Dorothea Waites	
<b><u>Date of birth</u></b>	22 February 1936	
<b><u>Date of death</u></b>	2 October 2011	
<b><u>Occupation/Status</u></b>	Widow  (formerly married to James Waites who died 28 December 1986)	
<b><u>Last Address</u></b>	The Nook Residential Home, Sandersley, Bedfordshire MK44 6BB	
<b><u>Last Will</u></b>	Dated 25 March 2004	See <b>Document 6</b>
<b><u>Relatives</u></b>	Son and daughters as mentioned in the will. Nigel is a financial adviser; Avril is a barrister and Helen is a vet.  She has ten grandchildren (all but two are at least 18).  Her only sibling (Cynthia) died on 3 March 2008.	

**Details of her estate etc****Assets**

<b>Current Account</b> at Retro Bank	Balance at 2 October 2011 including accrued interest to date of death	£2,103.20
<b>Savings Account</b> at Retro Bank	Balance at 2 October 2011 including accrued interest to date of death	£15,786.40
<b>Portfolio of investments</b>	Valuation of portfolio consisting of quoted shares dated 2 October 2011 supplied by stockbrokers.  The holdings of shares in Standard Life plc, Aviva plc, and Molins plc are in the name of Hilda Dorothy Waites.	£150,786.30

<b>Life interest</b> under will of sister Cynthia who died 3 March 2008. Trust fund now passes to Hilda's children in equal shares	Valuation of capital in the trust fund as at 2 October 2011 supplied by Mitchell and Webber, accountants, whose partners are the trustees. The fund consists of quoted shares, fixed interest stocks and a small amount of cash.	£256,000
	Income accrued and due to Hilda from her sister Cynthia's trust fund (see above) as at 2 October 2011 but still in hands of Mitchell and Webber	£1,243.50
<b>Cash</b> at The Nook		£26.00
<b>Personal possessions and jewellery</b>	Value estimated by daughters	£1,000.00
<b>State Pension and other State Benefits</b>	Statement supplied by Department of Works and Pensions show total arrears due as at 2 October 2011	£228.00

**Debts**

<b>Outstanding fees owed to The Nook Residential Home</b>		£2,280.00
<b>Funeral Account – Muggerridge and Co</b>		£2,756.00

**Gifts**

Shortly after the sale of her house in September 2005, she gave £600 to each of her ten grandchildren (or to their parents for their benefit in the case of those grandchildren then under 18).

In December 2005, she gave £50,000 to each of her children Avril, Nigel, and Helen

*Turn over*

**Will of Hilda Dorothea Waites dated 25 March 2004**

**THIS IS THE LAST WILL** of me HILDA DOROTHEA WAITES of Gull Rock View, Maple Terrace, Windy Cove, Dufton-on-Sea DF43 6RF which I make this 25th day of March Two Thousand and Four.

- 1 I revoke all former wills.
- 2 I wish to be cremated and my ashes scattered on the beach at Windy Cove.
- 3 I appoint as my executors my son Nigel Waites of 32 Millbank, Farnborough GU14 0NF and my daughters Avril Slattery of 23 Fox Bank Manchester M99 1SA and Helen Mooneram of 56 Cox Lane, Chessington, Surrey KT9 1SE.
- 4 I give a legacy of £1,000 to each of my grandchildren living at my death and I declare that if any such grandchild is under the age of eighteen when I die then that grandchild's legacy shall be paid to their parent who shall invest it in the purchase of Premium Savings Bonds for the benefit of such grandchild.
- 5 I give £5,000 to the RSPCA.
- 6 I give the rest of my estate after payment of all my debts, funeral and testamentary expenses in equal shares to my children and if any of my children shall die before me then their share is to pass to their own children in equal shares.

Signed by the testatrix in our joint presence )  
and then by us in her presence )

*Hilda D Waites*

*James Faulkner*  
*3 Maple Terrace, Windy Cove, Dufton-on-Sea*  
*Retired Civil Servant*

*Fiona Faulkner*  
*His wife also of 3 Maple Terrace as above*

**End of Case Study Materials**

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