5)

1) is Hank's Will a Valid attested?

In order to answer this question, we must first verify if Hank's (H) will is valid.

Here, we are told that H downloaded a form will filled it out stating because i have no children, i leave all my property to Sis and signed his will in the presence of two disinterested witensses.

Requirement of a valid will (attested)

A will is valid if testator has both legal and mental capacity, tentamentalry intent, and formalities have been met.

Legal capacity

Legal capacy requires testator to be at 18 years of age at the time of executing the will. Here, facts are silent as to how old H was at the time of executing his will, however, If he was 18 this element is satisfied.

Mental capacity

H would need to establish the following elements: 1) he was understanding the relationship of his bounty (his relationship with his relative) , 2)understand the nature of his assets (what he owns) and 3) he must understand he consequences of his action by making the will.

Here, because H knew he was going to leave all of his property to his Sis, he was understanding his relationship with his bounty.

this element is met.

In addition, since he said "he was going to leave all of his property" indicate that he knew what he owned and was aware of his belonging at the time of making this will, thus this element is also met.

Finally, he was understanding what he was doing by creating this will as he consciously devised all of his properties he owed to his sister "sis.

this element is also met.

H had both legal and mental capacity.

Testamentary intent

testamentary intent is established by showing testator has prepared important legal document, such as " a form will " in our case or appointing an executor to execute his will when testator dies. Here, this element is met becasue H actually downloaded a form will and filled it out and moreover he signed his will in the presence of two disinterested witness. These action are sufficent to show that H had a testamenary intent at the time of making his will.

Thus, this element is also met.

Formalities.

Here, since this is a attested will, under CA law, two disinterested witnesses must be present at time testator is signing his will. Moreover, two witness sign the will.

Here, however we are told that in state X which the will was signed , H required to have 3 witness, instead of 2 and H did not know that nor there is any information as two if these two witnesses also signed the will.

The fact that H's will was missing a witness does not in itself make the will invalid becasue H has liekly met all of the requirements under the California. Furthermore, there is no indication was the will was conditional or sham (which would render the will invalid), nor there is any indication that H was under undue influence or had any mental problem to render his mental capacilty in making this will.

Its likely that becasue all of the elements are met and since the will is contested in CA, lack of the 3rd witness does not create any issues for its validity of the will. However, the court determines otherwise, then H's will will be invalid, but its not likely.

2 what right if any do Sis, Wendy, Daughter and Son have in H's estate

Californai is a community property state. Earning of either spouse during the course of marriage is considered community property. On the other hand, inheritance, and gifts and devise aquired by a spouse is considered an SEPARATE PROPERTY ASSEST OF THE acquiring spouse.

Sis's rights with regards to his properties

We are told that state X where the will was excuted is not a community property state. In this case state X is treated as quasi community. (QC).

The When spouses are owning QC properties and are going to come to a community property state, like in our case, CA, QC properties are treated as SEPARATE properties of the acquiring spouse and at the time of divorce or death they will be treated as COMMUNITY PROPERTY ASSESTS.

LAND

Here, in 2021 H an Wendy (W) moved to California and that H died. In this case, since H's properties in state X are considered QC (since they move to CA) at the time of H's death, his properties will be treated at community property.

We are told H had inherited the land form his mother and that he titled in his name alone. Due to the fact the land was titled in his name only and that at no time W's name was added, the court will likely hold that the character of H's land did not change, thus is remained as H's separate property.

Moreover, there is no info that shows H and W ever transmuted between themselve (by a prenaptual agreement for example) in order to try to change the character of the land.

Thus, is court find the H's will valid the land would go to sis per H's will and no one else would get an interest in it as it remained H's separate property the whole time during the course of marriage.

Wendy's interest with respent to bank account

As discussed supra H's bank account eventhough it was in his own name, would be treated as a QC property and at the time of H's dealth would gain its community property character.

Under CA rule if a spouse passes away and leave more than one issue (in this case Daughter and Son) the survival spouse would get 1/3 of separate property assets and 1/2 of remaining community property

Daughter interest

Daughet will be entitled to 1/3 of $100,0000

Son's rights

Preemitted child (omitted child).

Parents can disinherit their children by leaving thier name's out of their will. However, when a parent does not know that he had a child, that child is not treated as an ommited child and is entitled to EQUAL SHARE as other living children.

Here, since at the time of creating the testamentary documents, parent(s) did not know that she/he had a '' son a ten year old child who had proved by DNA testing that he is H's son although H never knew of Sons existance'' thus Son is entitled share as Daughter, which is equal to 1/3 of $100,000 in H's bank account.

Question #5 Final Word Count = 1107

END OF EXAM