Key to Short Answer Questions

I

1 [p7] Answer: no........................................................ 0.5 1
   Rationale:
   * Notarial testament. ........................................... 0.5 1
   1 No “declaration” / “signification”.......................... 1 1.5
   * Requires indication by T’re that testament is his. .......... 0.5 1 1.5
   2 Defective attestation clause.................................. 0.5 1 1.5
   * Lacks statement of “declaration” / “signification”....... 0.5 1 1.5

2 Rationale:
   * Notarial testament. ........................................... 0.5 1
   1 No “declaration” / “signification”. .......................... 0.5 1
   * Requires indication by T’re that testament is his. .......... 0.5 1 1.5
   2 Defective attestation clause.................................. 0.5 1 1.5
   * Lacks statement of “declaration” / “signification”....... 0.5 1 1.5

2 Basis: undue influence............................................. 1 2
   2 BOP:
   a Bearer: challenger........................................... 0.5 1
   b Standard: POE............................................. 0.5 1
   1) Law
      a) Normal standard is C&CE.................................. 0.5 1
      b) Standard lowered to POE if_________________________ 0.5 1
         1) Relation of confidence b’n alleged influencer & D‘r... 0.5 1
            * Definition / examples.................................. 0.5 1 1.5
         2) Alleged influencer & D‘r not related by blood, adoption, or
            affinity / marriage/. ...................................... 0.5 1 1.5 2
   2) Facts
      a) There was a relation of confidence: explanation........ 0.5 1 1.5
      b) Not familially related: explanation........................ 0.5 1
   3 Relevant facts
      * Standard: substitution of volition; > advice / persuasion .. 0.5 1 1.5
      a D‘r’s susceptibility........................................... 0.5 1
      1) Old & weak................................................. 0.5 1
      2) Dependent on others for help................................ 0.5 1
      b Donee’s pressure............................................. 0.5 1
      1) She asked for it........................................... 0.5 1 1.5
      2) She threatened to withdraw her assistance............... 0.5 1 1.5
      * Her assistance was extensive & important.................. 0.5 1
      3) She determined terms (had her boyfriend draw up testament)0.5 1 1.5
   c Other
      1) D‘r never even read testament.............................. 0.5 1
      2) No evidence D‘r had any independent advice............. 0.5 1

III [p9] Answer: no........................................................ 0.5 1
   Rationale: revoked / by operation of law / upon divorce........ 0.5 1 1.5 2

II [p16] Answer: yes..................................................... 0.5 1
   Rationale: retour successorale (legal return).................... 0.5 1 1.5
   1 Law
      a Donation – ................................................. 0.5 1
      1) Of immovable property..................................... 0.5 1
      2) By ascendant to descendant................................ 0.5 1 1.5
      b Donee dies w/o descendants.................................. 0.5 1
      c Donatum still in succession.................................. 0.5 1
      . . . or price for donatum still owed.......................... 0.5 1
      * Real subrogation............................................. 0.5 1
   2 Facts
      a Donation: yes................................................. 0.5
      1) Of immovable property: yes................................ 0.5
      2) By ascendant to descendant: yes........................... 0.5 1
      b Donee dies without descendants: yes........................ 0.5
      c Price for donatum still owed: yes........................... 0.5