Question MEE 1 – February 2023 – Selected Answer 1

1.

Janes will will be valid despite the insane-delusion rule because she was of sound mind at the time she ordered the will to be made.

Under the law of most states, in order to have a valid will you must have a testator making the will with intent, two witnesses, and have the capacity to make the will.

Capacity is defined at the time that the will is created, and not throughout the life of the testator. The insane delusion rule is designed to prevent a testator from making a significant decision as a result of the delusions.

Here, Joan was seeing delusions when she thought that the male line of her family was cursed by martians. However, she showed to be of lucid mind when she told her attorney "leaving the males in my family anything valuable would be a complete waste on burglars and thieves" becuase it shows that she was of sound mind to understand that the men in her family had extensive criminal records for theft and burglary. Joan understood her decision in her discussion with the lawyer because she stated she wanted to leave all of her property to her daughter in her will.

Therefore in most states, Joan's will would survive the insane delusion rule because she was of sound mind when directing the will to be made.

2.

The facts do not show that Joan lacked the general mental capacity to execute a will because she clearly had moments of lucidity.

Under the applicable law, one is considered incapacitated when they do not have the mental ability to comprehend what they are doing. In the creation of a will, the capacity needs to only be there during the attestation of the will, as even those who do not regularly have mental capacity can have moments of clarity according to the supreme court.

Here, Joan had medically induced hallucinations, however this did not seem to affect the creation of her will. Joan showed a lack of understanding in her meetings with her millionaire friends when she claimed to be a millionaire and own a luxurious home and a very expensive car. This showed that she may not know what she was doing, or what assets she may have to create a will. Joan was not correct on these items because

she was never a millionaire and lived off of social security. However, Joan showed more than moments of lucidity because she monitored her bank account regularly and reconciled her bank statement monthly. Moreover, public policy does not allow ones statements of wealth to be proof of a lack of capacity because people are likely to lie about how much money they have when talking to their friends.

Therefore the facts do not show that Joan lacked the general mental capacity to execute a will because she clearly had moments of lucidity.

3.

Joans son would have standing to challenge the will because he would benefit from her succession going into intestacy.

In most states, the surviving relatives that have standing to contest a will are those who would benefit if the testator was to die intestate. In all states, when a person dies intestate, their heirs who will receive property are limited to the next line of children. If one of the children predeceases the deceased, then their heirs will take in their place.

Here, both of the children of Joan have survived her so the line of succession is cut off at her Daughter and Son. Since the Daughter is the recipient in the will and would not benefit from an intestate succession, she does not have standing to challenge the will. The son is set to benefit if Joan is presumed to have died intestate because he would be conveyed half of her estate under all of the approaches of intestacy.

Therefore Joan's son will have standing to challenge the will because he would benefit from its invalidity.

Question MEE 1 – February 2023 – Selected Answer 2

1. **Under the insane-delusion rule, Joan's will is valid.** The issue is whether Joan had an insane-delusion that would render her will invalid. Under the insane-delusion rule, a will may be invalid if an insane-delusion causes the testator to create a will. The party contesting the will has the burden of proving the testator had an insane delusion. Here, assuming Son contests the will, he will point to the fact that Joan believed the male line of her family was cursed by Martians. And, due to the "insane delusion" that Joan's male line of her family was cursed by Martians, Joan decided not to leave any property to the male line of her family. However, that is not true. Despite Joan's belief, Joan also stated that she did not want to leave anything to the males in

her family because "[l]eaving the males in my family anything valuable would be a complete waste on burglars and thieves." Joan's belief that the males in her family were burglars and thieves was not caused by Joan's insane delusion. Rather, Joan's son and her three grandsons all had extensive criminal records for theft and burglary. Therefore, under the insane-delusion rule, Joan's will is valid.

2. **The facts do not establish that Joan lacked mental capacity to execute a will.** The issue is whether Joan had testamentary capacity. To have testamentary capacity, a testator must: (a) understand the nature and extend of her bounty (i.e., the property she owns), (b) understand the nature and extent of her family, (c) understand she is making a will, and (d) understand the effect of the will.

3. The first issue is whether Joan understood the nature and extent of her bounty. Here, Joan regularly has lunch with her much wealthier friends. At those lunches, Joan told her friends that she was a "multimillionaire" and owned both a "luxurious home" and a "very expensive car." However, Joan was not a multimillionaire, lived in a modest apartment, her primary course of income was her Social Security benefits, and she often took cabs. However, Joan also monitored her bank account regularly and reconciled her bank statement every month. Therefore, it is likely that Joan did understand the nature and extent of her bounty, and rather, these statements to Joan's lunch friends were made for the purpose of fitting in with her friends, since they were much wealthier than Joan.

4. The second issue is whether Joan understood the who her family was, who would be entitled to her bounty. Here, Joan had two children, Daughter and Son, and four grandchildren (one granddaughter, the daughter of Daughter, and three grandsons, the sons of Son). She regularly send her family members birthday cards and gifts. Although Joan believed her male line was "cursed" by Martians and although Joan believed Son and the grandsons, who all had extensive criminal records for theft and burglary, were "burglars and thieves," there is no indication that Joan did not know understand that Daughter, Son, her granddaughter, and grandsons were the natural beneficiaries of her bounty.

5. The third issue is whether Joan understood she was making a will. Here, Joan made a will one year ago in which she left her entire estate to her daughter. She went to a lawyer to draft her will. There are no facts to suggest Joan was unaware that she was making a will.

6. The fourth issue is whether Joan understood the effects of the will and how it would impact her family. Here, Joan went to her lawyer to make the will. She told her lawyer to leave everything to her daughter and nothing to her male line. Further, Joan stated, "[l]eaving the males in my family anything valuable would be a complete waste." Thus, it is clear Joan understood that in doing so, Daughter would inherit everything and Son would inherit nothing. Therefore, the facts do not establish that Joan lacked mental capacity to execute a will.

7. **Joan's surviving heirs will have standing to contest Joan's will.** The issue is whether the beneficiaries with a vest interest have a good faith basis to contest the will. Under testate law, the heirs with a good faith basis to contest the will have standing to contest the will. Most likely, the will would be contested by Son. Had Joan died intestate, Son would have been entitled to 1/2 of Joan's estate. However, in Joan's will, Joan has left everything to Daughter. Since Son would have otherwise had a vested interest in Joan's estate, Son has standing to contest Joan's will. To contest Joan's will, Son must show he has a good faith basis for contesting the will. Here, Joan believed that her male line was cursed by martians. Thus, Son will likely claim that Joan had an insane delusion or lacked testamentary capacity to make a will. Although those claims are likely to fail for the reasons mentioned above, Son nevertheless can argue those claims in good faith. Therefore, Son has standing to contest Joan's will.

Question MEE 1 – February 2023 – Selected Answer 3

1. Under the insane delusion rule, Joan's will would not be considered invalid. Under the insane delusion rule, a will may be determined to be invalid if the testator in devising their property does so under the belief of a delusion that no reasonable person would have and that would impact the outcome of property distribution than would otherwise occur. Here, Joan's doctor had prescribed her a drug that was known to produce hallucinations in some patients. The effects of the drugs caused her to experience frequent hallucinations leading to her delusion that the male line of her family was "cursed" by Martians. While it is apparent that Joan is experiencing delusions, there is no indication in the facts that said delusions impacted her present testamentary intent when she went to her lawyer to draft her will. In fact, when visiting her attorney she intended to leave all her property to her daughter and nothing to her male line, citing the fact that her only son and grandson's had extensive criminal records for theft and burglary, and saw that leaving anything of value to them to be a waste. Therefore, there is no indication that under the insane-delusion rule that Joan's present testamentary intent was impeded by unreasonable delusions that would impact her capacity to devise her property.

2. The facts do not indicate that Joan's will is invalid, and she did in fact have the general mental capacity to validly execute the will. In order for a testator to have the mental capacity to execute a will, they must: 1. must know the nature of the act; 2. must know the nature of the property; 3. must know the natural objects of her bounty; and 4. must know the general plan of disposition of the property. Here the facts indicate that Joan understood the nature of her act when she went to her lawyer to draft her will. She understood that she wanted to leave her property to her

daughter and exclude her son and daughters. There arises an issue, however, if Joan understood what the nature of property she sought to devise was. For the last five years she had often told her friends she was a "multimillionare" and owned both a "luxurious" home and a "very expensive" car, when she in fact resided in a modest apartment and her primary source of income was her Social Security benefits. While there is an argument as to whether she did not understand the nature of her property, the facts do show that she monitored her bank account regularly and reconciled her bank statement every month. This demonstrates, at a minimum, that Joan was knowledgeable of her assets that she sought to distribute. Further she certainly understood the objects of her bounty, as she specifically sought to leave her entire estate to her only daughter, excluding her son and grandsons on account of their criminal records for theft and burglary. As such, the facts establish that Joan's will is valid as she possessed the general mental capacity to execute her will.

3. Joan's son would be the only surviving relative to have standing as a contestant to contest Joan's will. Generally, only beneficiaries that would stand to benefit from intestate distribution should the will be denied in probate have standing to contest the will. Therefore, Joan's only son would have standing to contest the will, as a successful will contest would result in Joan's estate being divided between her issue--Joan's daughter and son-- evenly. The grandsons do not have any standing to contest the will, as even if the will was not entered into probate, they would not stand to inherit under intestacy, as the property would still fall to Joan's daughter and son. At her death, Joan had no significant assets, other than her bank account containing $100,000. It should be noted that typically a bank account will have a payable on death certificate which designates a beneficiary at the death of the account holder, and is typically considered a non-probatable asset. While the facts do not indicate whether there was a payable on death certificate on the account designating such a beneficiary, this would be an issue if this were the case, taking it outside the a will contestants claim.