SIMULATION 1

Areas of Law

- Wills & Estates
- General

Scenario

On Monday morning, April 12, 20--, you meet with Anita Quinn. It's your first day on the job and you are somewhat apprehensive.

Ms. Quinn welcomes you to Gandhi Wentzell. She shows you to your work area explaining on the way that you may call her Anita provided that there are no clients around. When there are clients and other "outside" visitors, then you must refer to her as Ms. Quinn. She also mentions that you must address lawyers in the firm in a formal manner (e.g., Mr. Cho) until given permission to do otherwise (e.g., Daniel).

You meet the other people working in LSS. They are friendly and polite but obviously very busy.

Ms. Quinn shows you the location of the photocopier, stationery supplies, lunch room, washrooms, etc. She asks you to familiarize yourself with the Gandhi Wentzell conventions for formatting, etc., and to ensure you remember where the Gandhi Wentzell precedents are located. She assures you that no question is regarded as stupid in LSS. If you are not sure of something, ask. Obviously, you must use your initiative but, on the other hand, you cannot afford to waste time. On that topic, Ms. Quinn tells you that everyone working for Gandhi Wentzell has to keep track of their time worked on client files, including preparing, proofreading, and processing documents; communicating with clients via telephone or e-mail; doing research; attending meetings; etc. It is from these time sheets that the lawyers in the firm decide how much to bill clients.

Ms. Quinn tells you that you will have a "charge-out" rate of $40 an hour but others in the firm have differing rates.

Ms. Quinn points out that any work you do relating to the administration of Gandhi Wentzell cannot be charged to clients and is not put on a time sheet. For example, if you are asked to prepare an Agenda for a meeting of Gandhi Wentzell partners, you do not enter this on your time sheet. If, on the other hand, you are asked to prepare an Agenda for ABC Company (a client), then you enter the time taken to prepare that document on your time sheet.

One of the "legacies" of Ms. X is that no-one has a time sheet right now. This situation has to be rectified immediately. It's top priority. Ms. Quinn asks you to design a time sheet. It must show the date, the client's name and file number, the work performed, the initials of the person doing the work, the time spent working on the client file (in tenths of an hour), the charge-out rate, and the total $ amount. As soon as you've got the work done, you are to e-mail it to Ms. Quinn (*a.quinn@gandhiwent.ca*). The IT personnel have already set up an e-mail address for you. All Gandhi Wentzell staff have an e-mail address comprising the person's initial, followed by a dot, then the person's family name followed by gandhiwent.ca.

LEARNING MOMENT

$^{1}/_{10}{}^{th}$ of an hour = 0.1 hour = 6 minutes.

LEARNING MOMENT

Work relating to the administration of a law firm is not charged to clients.

Task 1. Prepare the time sheet.

Scenario

Ms. Quinn is delighted at how quickly you produced the time sheet. She's circulated it to everyone in the firm. You've certainly had a lot of Thank You's coming your way. Your e-mail In-Box is filling up quickly.

You are on your way to the lunch room to get a cup of coffee when Ms. Quinn stops you. She tells you that yet "another fire has to be put out." Someone has discovered more of Ms. X's "tricks." No-one seems to be able to access the Gandhi Wentzell branch contact list but, by a stroke of luck, Ms. Quinn has found an audio file (GW Branch Offices.wav) with most of the basic branch contact information on it. She asks you to transcribe this as soon as possible and to e-mail her the file in .pdf format. You get a cup of coffee and head back to your desk.

LEARNING MOMENT

Instructions are often given orally. It is a good idea to have either a paper or electronic notepad with you at all times.

Task 2. Transcribe the Gandhi Wentzell branch contact list file and organize the information in a logical manner for easy reference.

Scenario

Ms. Quinn comes to see you. She thanks you for doing an excellent job on the branch contact list. Thanks to you, this information is now available to everyone in the firm. She explains that while the majority of information is transmitted via e-mail, including Thank You's, the firm also encourages its staff to say Thank You in person.

Shortly after Ms. Quinn leaves, you receive the following e-mail from the Manitoba office:

From: Claudia Keselowski <c.keselowski@gandhiwent.ca>

Subject: Will – Ramesh Sihota – File No. 18,435/1

Attachment: Ramesh Sihota Interview Notes.pdf

Please prepare a draft Will for Ramesh using the GW precedent. My interview notes are attached.

Thanks.

Claudia

LEARNING MOMENT

A Will, often called a Last Will and Testament, is a legal document that expresses the wishes of a living person as to the disposition of his or her property upon death. Until recently, a man making and executing (signing) a Will was called the testator and a woman the testatrix. Nowadays, the term testator or will-maker refers to anyone making and executing a Will; however, you will see the terms testator and testatrix in many older Wills that you refer to when doing estate work.

The following are some terms commonly used in Wills:

Term	Definition
Beneficiary	A person or organization that receives some benefit from a Will (cash, life insurance proceeds, real property, personal property)
Bequest	A gift of personal property under a Will
Deceased	Dead; the dead person
Devise	A gift of real property under a Will
Devisee	A person receiving a devise
Devolve	The right for property to be transferred automatically from one party to another
Estate	Everything owned and owed by the deceased
Executor	A person named in a Will to carry out the wishes of the will-maker upon death and handle the probate of the estate. An executor is usually also named as a trustee under a Will. In older Wills you will see the terms executrix (female executor) and executrices (female executors).

Term	Definition
Heir-at-Law	A person who, after her or his ancestor dies intestate (without leaving a Will), has a legal right to all or a share of the estate of the deceased
Intestate	Dying without leaving a Will
Issue	Descendants; children
Probate	Probate involves the court overseeing the distribution of the estate in accordance with the terms of the Will, including verifying that the Will is valid and that the executor(s) named in the Will is/are authorized to act
Residue	The remainder of the estate (property) of the deceased that is to be distributed once all debts of the estate have been paid and all beneficiaries or heirs-at-law have received their gifts
Revoke	Cancel
Trust	A separate legal entity that is formed either prior to someone's death in order to avoid probate, or after probate
Trustee	A person who is responsible for managing a trust
Vest	The right for an asset to be transferred unconditionally

LEARNING MOMENT

a.k.a. means "also known as"; o.k.a. means "otherwise known as."

LEARNING MOMENT

When a client approaches a law firm to have a Will prepared, the lawyer notes the client's wishes and then decides on the appropriate wording for the Will. Most law firms keep standard precedent Wills clauses on their computer systems so that a lawyer need only give instructions to the legal support staff as to which clauses to use in preparing the Will. If the Will is complicated, the lawyer may use a combination of standard precedent clauses and tailor-made ones.

LEARNING MOMENT

When using precedents, remember to adapt them to the current circumstances. Pay particular attention to changes in numbers, names, and genders.

LEARNING MOMENT

Because Wills are generally top-bound, place page numbers at the bottom of each page except the first and last one.

Task

3. Prepare the draft Will and e-mail it to Claudia Keselowski. Remember to keep track of your time and enter it on your time sheet.

Scenario

You are thinking about your Gandhi Wentzell branch contact list. You realize that you are going to be working with lawyers across Canada and you will want to remember their names and areas of law. You make a note to revamp your contact list to include this information.

After lunch, Janice Hague of the Charlottetown office telephones you. She explains that her client, David Diebolt, wants to change his Will insofar as just the guardianship of his kids is concerned. In his original Will (Paragraph 9.0) his sister, Carol Shriver, was named as guardian should David and his partner, Stephen, die. Janice explains that she sent instructions through to Ms. X to prepare a Codicil to amend David's Will but the document Ms. X prepared is totally incorrect – not even the right client. You ask Ms. Hague if she has her notes relating to the Codicil. She does, so agrees to e-mail them to you along with a copy of Ms. X's version of the Codicil.

Shortly after the telephone conversation, you receive the following e-mail from the PE office:

From: Janice Hague <j.hague@gandhiwent.ca>

Subject: Codicil – David Diebolt – File No. 5,901/2

Attachment: David Diebolt Interview Notes.pdf
David Diebolt Codicil – Incorrect.pdf

Further to our telephone conversation, attached is the paperwork relating to Diebolt's Codicil. If you have any questions, please don't hesitate to e-mail or phone me.

Janice

LEARNING MOMENT

A guardian is a person appointed in a Will to look after the children of the deceased.

LEARNING MOMENT

When using precedents, ensure that the formatting (line spacing, paragraph style, margins, etc.) meets your law office's conventions.

Task

4. Prepare the Codicil and e-mail it to Janice Hague.

Scenario

Mid-afternoon, you receive another e-mail from Claudia Keselowski.

From: Claudia Keselowski <c.keselowski@gandhiwent.ca>

Subject: Will – Ramesh Sihota – File No. 18,435/1

Attachment:

The Will looks fantastic. Thank you so much. Please would you prepare a letter to Ramesh for my signature. We'll send him a copy of the Will and ask him to look over it carefully to ensure that it reflects his wishes. If he has any questions, he can call or e-mail me. If everything is in order, ask him to call my office to set up an appointment to come in to execute the Will. I'll e-mail everything to Ramesh.

Many thanks,

Claudia

LEARNING MOMENT

Until a Will is signed, it is referred to as a "draft Will."

LEARNING MOMENT

Always prepare an envelope or envelope label unless the letter is being e-mailed to the client as an attachment.

Task

5. Prepare the covering letter to Ramesh Sihota enclosing the draft Will.

Scenario

Yesterday was your first day at Gandhi Wentzell. You were exhausted by the time you got home. There was so much to do and learn but you felt that you'd done a good day's work.

When you get into the office this morning, there is another e-mail from Claudia Keselowski.

From: Claudia Keselowski <c.keselowski@gandhiwent.ca>

Subject: Statement of Account – Ramesh Sihota – File No. 18,435/1

Attachment:

I heard back from Ramesh Sihota early this morning. He's happy with the Will and is coming in later this afternoon to sign it. It's a bit of a rush because he has a flight leaving at 1800. I need to bill Ramesh, so I'd appreciate it if you would put one together for me asap. By the way, my time for attending on the client at the execution of the Will will be approximately 30 minutes. Make the fees $475.00 irrespective of what the total time sheets indicate.

Many thanks!

Claudia

You locate a precedent of a Gandhi Wentzell statement of account but you are not sure where to locate the time sheet information. You go and ask Ms. Quinn. She's happy to assist you. She shows you how to access the time sheets for a given client as well as allocate an invoice number. Most, but not all, of the information is now back on-line following Ms. X's hacking into the computer system.

You receive the following printout:

Ramesh Sihota	Invoice Allocation No. M43716

20--	Service	Inits	Time	Rate	Total
Apr. 2	Telephone call from client regarding meeting to discuss changes to existing Will	CK	0.10	$200	$20.00
Apr. 9	Meeting with client to take instructions re: new Will	CK	0.75	$200	$150.00
Apr. 12	Preparing draft Will				
Apr. 12	Reviewing draft Will	CK	0.40	$200	$80.00
Apr. 12	Preparing letter to client attaching draft Will				

Disbursements					
Date	Disbursement	Inits	No.	Rate	Total
Apr. 2-13	E-mail	CK, You	8	$1.00	$8.00
Apr. 2	Long-distance telephone	CK	10 mins	$0.10	$1.00
Apr. 13	Photocopies	PG	15	$0.80	$12.00

Ms. Quinn tells you to add in your time and rate because your time sheets have not yet been processed.

You tell Ms. Quinn that Ms. Keselowski has asked you to allow 30 minutes for executing the Will but you're not quite sure how this works because Ms. Keselowski won't be putting her time sheet in until after the bill has been prepared. Ms. Quinn says that this is sometimes the case; however, the ultimate decision is made by the lawyer. She explains that sometimes a lawyer will bill a client for less than

the time sheet total. This happens when support staff are slow in preparing documentation and to bill the client for the total amount would not be expedient; i.e., the client might balk at paying the bill. Most Wills, depending upon their length and complexity, are billed at between $300 and $500. You mention that
Ms. Keselowski has indicated a fee of $475.

Ms. Quinn points out that normally statements of account are sent out after execution of a Will; however, there are obviously circumstances here where Mr. Sihota is going out of town and wants to settle his account before leaving.

Ms. Quinn also shows you how to access the various provincial sales taxes. You look up Manitoba and find a current rate of 12% (GST 5%, PST 7%).

LEARNING MOMENT

E. & O.E. (errors and omissions excepted) means that there may be other charges not listed on the statement of account.

LEARNING MOMENT

If a client thinks that a bill is too high and cannot come to an agreement with the law firm, the client may approach the District Registrar (or similarly named official) to ask for a taxing (review) of the account. The District Registrar will ask the law firm to produce all time sheets and lists of disbursements. That is why it is important to keep accurate time and disbursement information.

Task

6. Calculate the total time sheet figures. Are they more or less than Ms. Keselowski wants to bill? Why is this so?

   Prepare the statement of account for the preparation of Mr. Sihota's Will and send it to Ms. Keselowski.