Rules applicable in Week 1:

1. Definitions:
   a. Testator: deceased person
   b. Intestate rules: rules of law which govern the transfer of property (the estate) if a person dies without a will.
      i. If no surviving spouse, all property passes to children of testator
   c. Life estate: a present possessory interest in property that expired when the person in possession dies. Typically created by the phrase, “To X for life...”, but wording need not be exactly the same. The phrase, “I leave all real and personal property to X” tends to create a fee simple transfer, not a life estate.
   d. Testamentary intent: it must be evident from the will that the testator is directing the final disposition of his/her property

2. Terms of a will:
   a. Testator’s intent is primary importance
   b. Courts generally prefer that property transfer under a will, rather than by intestate rules

3. Holographic (handwritten/unwitnessed) wills
   a. Will must:
      i. be in testator’s handwriting
      ii. signed by testator (location of signature is unimportant)
      iii. include testamentary intent
   b. Holographic wills can be written on anything; need not be dated.

TEXASLAW
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QUESTION 1

Billy Bob, a Texas resident, died in 2009, leaving a will written on a cocktail napkin that in its entirety stated:

Upon my death my wife Donna gets everything till she dies.
Being of sound mind I leave to Donna all real & personal property.
[signed] Billy Bob

The will was entirely in Billy Bob’s handwriting and was not dated. Billy Bob made no prior or subsequent wills.

Donna applied to admit Billy Bob’s will to probate and then died six weeks later.

Billy Bob’s adult child from a prior marriage, Wanda, entered an appearance in the probate proceeding. She claims that Billy Bob’s will is invalid and, in the alternative, that the will expresses Billy Bob’s intent to create only a life estate in favor of Donna, which ended upon Donna’s death. Wanda seeks judgment that the remainder of the estate passes to her.

Marge, Donna’s sister and the independent executor of Donna’s estate, claims that the will is valid and that it expresses Billy Bob’s intent to leave all of Billy Bob’s property to Donna. She seeks judgment that all of Billy Bob’s property belongs to Donna’s estate.

How should the court rule on: (1) the validity of Billy Bob’s will, and (2) the ultimate disposition of Billy Bob’s estate? Explain fully.