

## Representation of Jeanna Quinn, Le Moignan; and the Estate of Horace Edward Le Moignan (Deceased)

<b>Jurisdiction:</b>	Jersey
<b>Judge:</b>	Bailiff
<b>Judgment Date:</b>	23 November 2015
<b>Neutral Citation:</b>	[2015] JRC 239A
<b>Reported In:</b>	[2015] JRC 239A
<b>Court:</b>	Royal Court
<b>Date:</b>	23 November 2015

**vLex Document Id:** VLEX-792862313

**Link:** <https://justis.vlex.com/vid/representation-of-jeanna-quinn-792862313>

### Text

[2015] JRC 239A

ROYAL COURT

(Samedi)

Before:

T. J. Le Cocq, **Esq., Deputy**Bailiff, **and**Jurats Fisher**and**Thomas.

In The Matter of Representation of Jeanna Quinn, Le Moignan  
And In The Matter of the Estate of Horace Edward Le Moignan (Deceased)

**Advocate** G. A. H. Baxter **for the Representor.**

### Authorities

*In the Estate of Vautier* [\[2000\] JLR 351](#) .

Probate — reasons for granting of application for rectification of Wills of Horace Edward Le Moignan.

Bailiff

## THE DEPUTY

- 1 This is an application for rectification of the Wills of movable and immovable estate of Horace Edward Le Moignan (Deceased). The application is made on the basis that the Wills as drafted did not reflect the intentions of the testator and to an extent are ambiguous and contradictory on their face.
- 2 We apply the test set out in *In the Estate of Vautier* [\[2000\] JLR 351](#) where at page 360, line 26 the Court said:—

***“In the case of wills, the remedy of rectification is one which must be used sparingly and with extreme caution.*** The testator is no longer present to tell the Court what he intended. The parties before the Court may have reasons of their own for seeking to “change” the wording used by the testator. The Court must therefore be very careful before altering the words used by the testator. However where it is satisfied by clear and compelling evidence that a mistake has been made and that the words used do not reflect the testator's intentions, the Court may grant the discretionary remedy of rectification so as to alter the wording (whether by deletion, substitution or addition) so as to ***carry out those intentions.*** As in the case of trusts, any applicant will have to make full and frank disclosure of all material facts.”

- 3 We have read with care the evidence in this case including the affidavits filed by Advocate Scholefield, who was the advocate who took instructions for the Will and supervised its drafting and execution, and we are satisfied that the test set out in the case of *Vautier* has been met in this case.
- 4 The draft order that has been put before us for consideration is slightly at odds with the wording in the prayer of the Representation but, for the reasons advanced to us by Advocate Baxter, we are satisfied that there is no material difference between the draft order for rectification and the prayer of the Representation. The difference between the draft order and the prayer simply reflect the correction of certain evident ambiguities and further errors on the surface of the Wills.
- 5 Accordingly, we make the order for rectification in terms of the draft provided to us.

