

**EMPIRE LAW
WILLS TRUSTS
FINAL EXAM – APRIL 2017
PROF. SINGIANI**

Question One Issue Outline:

1. Formalities of will execution, substantial compliance, dispensing power, harmless error (20 points).
2. Holographic will v. holographic codicil (no date of execution), inconsistent provisions, Carl's potential conflict of interest and his fiduciary duties regarding the handwritten document (20 points).
3. Lapse and Anti-Lapse (10 points)
4. House is specific gift, Trisha's gift is general devise; Carl is a residuary beneficiary. Abatement, order of abatement, non-relatives first, then relatives. (20 points)
5. Cancellation/Revocation, Codicil by dispensing power (substantial compliance), if not DRR (30 points)

Question Two Issue Outline

- 1/3 Gift to Employees (15 points): Class Gift to Employees, Doctrine Facts of Independent Significance (for Gifts to Employees). Employees pay proportionate share of Estate Tax.
- 1/3 Gift to Todd in Trust (60 points): Spendthrift provision; Discretionary Trust and Duties of Trustee; Creditor's ability to access trust funds; Todd's declination to serve as Trustee (merger doctrine); statutory exception to support obligation; Bank's fiduciary obligations to balance Todd's interest with remainder beneficiary's interest; Bank's obligation to preserve trust estate and not pay for Todd's debts (depending on knowledge of debts and judgment creditors). Todd's Trust pays proportionate share of Estate Tax.
- 1/3 Gift to Charity (25 points): Charitable Gift; Lapse; Cypruss Doctrine; Gift exempt from Estate Tax.

Question Three Issue Outline:

- Standing (10 points) – Can kids bring action? Trust is revocable.
- Duties of Trustee (30 points)
- Undue influence, elder abuse (30 points)
- Defenses (30 points): Exculpatory clause and consent