

ACADEMIC COURSE SYLLABUS

COURSE TITLE:	WILLS & TRUST
COURSE NUMBER:	LAW 701A
UNITS:	3 Units
COURSE TYPE:	Required
PROFESSOR(S) NAME:	Bradford J. DeMeo and Carmen D. Sinigiani
PROFESSOR CONTACT INFO:	Professor DeMeo - BDeMeo@empirecollege.com Professor Sinigiani - cgsinigiani@comcast.net ; (707) 545-3232
SCHEDULE:	Spring 2016, Thursdays 6-9:00pm, Room #212
PREREQUISITES:	Successful completion of second-year required coursework
COREQUISITES:	None
TEXTS AND MATERIALS: (Identification of any texts, materials and references used throughout the course.)	<i>Estates and Trusts, Cases and Materials, 4th Edition</i> by Sterk, Leslie and Dobris' from West Publishing/Foundation Press , ISBN # 978-1-59941-928-2, Publication date: 7/12/2011 Supplemental Materials – may be distributed as needed
COURSE DESCRIPTION:	Covers intestacy; execution; integration; republication; incorporation by reference, independent significance; revocation and revival; will contracts; testamentary capacity; lapse, ademption; satisfaction; will contests; will substitutes; nature and classification of trusts; elements of a trust, creation of inter vivos and testamentary trusts; revocable and irrevocable trusts; insurance trusts; nature of the beneficiary's interest, including restraints on alienation and principles regarding transferability; modification and termination of trusts; charitable trusts, fiduciary administration, including qualification, duties, standards and liabilities of fiduciary; management, investment and accounting by fiduciary; powers of appointment.
COURSE OBJECTIVES / ANTICIPATED LEARNING OUTCOMES: (Description of what students will be expected to know and be able to do at the end of the course. What skills or knowledge will be gained by the end of the course.)	This course covers the basics of redistributing wealth at death. Particularly, the class will cover descent and distribution, testamentary capacity, execution and revocation of wills, construction and interpretation of estate documents, and limitations on the right to dispose of property. The text presents a somewhat different approach to the study of law than other casebooks. We will cover approximately 150 principal cases during the Fall semester. However, it is important to stress that the subject of wills is as much statutory as case law. Study of the California Probate Code is essential. <u>Students will be expected to exercise good legal research skills by searching for and analyzing California Probate Code sections applicable to the weekly subject matter assigned in the syllabus.</u> In 1931, the California Legislature enacted the probate code. Through the years, that code was expanded and, from time to time, revised. However, over the past few years there have been many revisions

made to the California Probate Code. In the process, parts of the Uniform Probate Code have been adopted. As a result, while the casebook was not written for specific use in this state, the text does reflect California Law in most respects and provides adequate materials for developing good legal analysis in this subject area.

The lecture and class discussion will center on the questions and problems found in virtually every section of the casebook and Probate Code. Key to learning in this class is not merely reading the cases, statutes and notes, but also studying the questions and problems and recognizing how they apply the governing legal principles and rules. Occasionally, other areas of law invade our study of wills and trusts. For instance, torts in the study of tortious interference with inheritance; and contracts in the study of contracts to make, or not to make, a will or trust in exchange for services; and future interests historically covered in the law of property. All are essential to understanding inheritance rights.

As Ambrose Bearce once wrote: “Death is not the end, there remains the litigation over the estate.” In this course, students will find many litigants fighting over “other people’s money”.

Students must demonstrate the minimum level of competency for an attorney in CA in the subject matter of Wills & Trusts

Students must demonstrate they possess a minimum level of knowledge to pass a CA State Bar Examination question involving the subject matter of Wills & Trusts.

Students should expect to spend a minimum of two hours/per hour of instruction time on assigned readings and briefing cases. For example, a 3-hour class would require at least 6 hours of outside preparation time per week.

FORMAT OVERVIEW / METHOD OF INSTRUCTION (Description of how the course will be taught, including breakdown of lecture, practicum, etc.)

The text presents a somewhat different approach to the study of law than other casebooks. We will cover approximately 150 principal cases during the Fall semester. However, it is important to stress that the subject of wills is as much statutory as case law. Study of the California Probate Code is essential. **Students will be expected to exercise good legal research skills by searching for and analyzing California Probate Code sections applicable to the weekly subject matter assigned in the syllabus.**

The lecture and class discussion will center on the questions and problems found in virtually every section of the casebook and Probate Code. Key to learning in this class is not merely reading the cases, statutes and notes, but also studying the questions and problems and recognizing how they apply the governing legal principles and rules. Occasionally, other areas of law invade our study of wills and trusts. For instance, torts in the study of tortious interference with inheritance; and contracts in the study of contracts to make, or not to make, a will or trust in exchange for services; and future interests

	historically covered in the law of property. All are essential to understanding inheritance rights.
EXAMS:	<p>EXAM: 3 HOURS – 3 QUESTIONS</p> <p>The exam questions will each present one or more legal problems. Students will be expected to (1) Identify the legal issues involved in the problems; (2) Provide a statement of the legally operative facts involving the legal issues; and (3) Answer the problems with thorough legal analysis by a discussion of the controlling legal principles and rules.</p> <p>Exams begin promptly at 6 p.m. All students must take examinations as scheduled. It is recognized that in special circumstances and due to emergencies, it may be necessary to schedule delayed examinations. An emergency is defined as a serious illness or injury to the student or a member of his or her immediate family. Special Circumstances are defined as other situations that, in the opinion of the Dean, are sufficient to warrant delay in taking examinations. Any student taking delayed examinations <u>must have the prior written approval of the Dean.</u></p> <p>No examination may be taken <i>prior</i> to the day of the regularly scheduled examination. If delayed examinations are approved by the Dean, <u>a fee of \$75 will be charged for each such exam taken.</u> Failure to complete an exam is not sufficient reason for a late or retake exam.</p>
GRADING / ASSESSMENT CRITERIA/CLASS POLICIES:	<p>Empire College uses the following grading system:</p> <p><u>Numerically graded classes:</u></p> <p>90 – 100 A Outstanding 80 - 89 B Superior 70 - 79 C Satisfactory 65 - 69 D Unsatisfactory 64 and Below Failing/No Credit</p> <p>Only numeric grades in Required courses are used to calculate grade point average.</p> <p>The grade will be based upon the results of a 3-question Fall semester final exam. Passing score is 65 points out of 100 possible. <u>A course requirement is that each student present in class at least four of our principal cases.</u> While you are not expected to carry the class discussion for more than 20 minutes, you will be expected to open the discussion by explaining the legal issues presented, the relevant facts, the court’s reasoning, and the result of the case in a professional and complete manner.</p>
ATTENDANCE:	<p>Students must attend no less than 12 of the class sessions during the Fall semester. Roll will be taken at each class after the break.</p> <p>Attendance of less than the full three hours of class will not count for attendance. There are no exceptions to the attendance requirement.</p> <p>Regular and punctual attendance is essential for the successful</p>

completion of the course. Students should plan to attend every class. Students must attend a minimum of 80% (36 hours — 12 of 15 classes) of the class sessions during each semester. Roll will be taken at each class. Class attendance is of particular importance in learning the language and concepts of the law. Make-up classes will be scheduled on evenings when classes are not usually held or on weekends or made up on another night be staying longer. Class sessions which are delayed or canceled because of holidays or policy of Empire College School of Law, and which are re-scheduled for a different date are considered regularly scheduled class sessions, not make-up classes. A student who has exceeded the absence limits outlined will be automatically dropped from the course. A student who is dropped from a course will be required to repeat the course at its next offering in order to meet graduation requirements.

ASSIGNMENTS:

Spring 2016

Week #	Reading Assignment Page Numbers	Topic	Problems
Week 1	1-64	Introduction; role of the lawyer; probate & non-probate transfers	
Week 2	65-122; 147-166; Probate Code 6400-6455	Intestate succession- share of spouse and lineal descendents; collaterals, halfbloods & adoption; simultaneous death; Community property; Elective share.	Problems on pages 75-76, 87-88, 90-91
Week 3	167-170; 203-226; Probate Code 28, 6500-6615	Community property; Elective share, cont'd.	Problems on pages 94, 99, 108-109, 193.
Week 4	227-283; Probate Code 6100-6113	Wills: will execution; what is a will?	Problems 1 & 2 on page 275, Problem 1 on page 277
Week 5	283-338	Wills: abatement, exoneration, ademption, lapse; interpretation and construction	
Week 6	353-405; Probate Code 6120-6124	Wills: Mistake; revocation; revival; DRR; Will contracts.	Problem 1 page 380, problems 1 & 2 on page 383
Week 7	405-473; Civil Code 1575; Probate Code 6100.5, 6104, 21360-21392	Illustrative will; capacity; undue influence	
Week 8	473-540	Tortious interference, planning for contests, GLBT testators; introduction to trusts	Problems on pages 539-540
Week 9	540-607	Support & discretionary trusts; revocable living trusts; ethical issues; creditors' rights	Problems on pages 549, 551, 570, 574-576
Week 10	607-696	Spendthrift trusts; asset protection trusts; planning for incapacity;	Problems on pages 617-618, 635-637, 683-

		termination and modification.	684
Week 11	696-754; Probate Code 600-695	Charitable trusts; powers of appointment	Problems on pages 710, 741-742, 752- 753
Week 12	754-812	Powers of appointment cont'd.; future interests	Problems on pages 754, 772, 775, 801 and Problem 1 on page 811
Week 13	812-843	Future interests cont'd.; class gifts;	Problem on page 816 and Problem 1 on page 835.
Week 14	1041-1101; Probate Code 16000-16249, 16400-16465	Fiduciary duties; Powers of Trustee; Liability of Trustees to Beneficiaries Course Review	
Week 15 Final Exam date TBA	<p>EXAM: 3 HOURS – 3 QUESTIONS</p> <p>The exam questions will each present one or more legal problems. Students will be expected to (1) Identify the legal issues involved in the problems; (2) Provide a statement of the legally operative facts involving the legal issues; and (3) Answer the problems with thorough legal analysis by a discussion of the controlling legal principles and rules.</p>		

“Where there’s a Will, there’s a relative” J.N. DeMeo, Attorney/Author

“Money is thicker than blood!” J.N. DeMeo

Syllabus is subject to change.