

ACADEMIC COURSE SYLLABUS

COURSE TITLE:	<i>WILLS & TRUST</i>
COURSE NUMBER:	LAW 701A
UNITS:	3 Units
COURSE TYPE:	Required
PROFESSOR(S) NAME:	Carmen D. Sinigiani
PROFESSOR CONTACT INFO:	Professor Sinigiani - sinigiani@smlaw.com (707) 524-1900
SCHEDULE:	Spring 2019, Thursdays 6-9:00pm, Room #104
PREREQUISITES:	Successful completion of second-year required coursework
COREQUISITES:	None
TEXTS AND MATERIALS: (Identification of any texts, materials and references used throughout the course.)	<p><i>Estates and Trusts, Cases and Materials, 5th Edition</i> by Sterk, Leslie and Dobris' from West Publishing/Foundation Press , ISBN # ISBN-13: 978-1609303280, Publication date: 2015</p> <p>Recommended: California Probate Code, Desktop book (or online access)</p> <p>Supplemental Materials – check syllabus for additional cases to download. Other materials may be distributed as needed</p>
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.)	<p>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.</p> <p>The text presents a somewhat different approach to the study of law than other casebooks. We will cover approximately 150 principal cases during the 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></p>

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.)

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	<p>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.</p>
<p>EXAMS:</p>	<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> No examination may be taken <u>prior</u> 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>
<p>GRADING / ASSESSMENT CRITERIA/CLASS POLICIES:</p>	<p>Empire College uses the following grading system: <u>Numerically graded classes:</u> 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 3question Spring 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 semester. Roll will be taken at each class after the break. 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 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 by 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.</p>
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ASSIGNMENTS:	Spring 2019
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Week #	Reading Assignment Page Numbers	Topic
Week 1	1-56 Added case: <i>Moore v. Anderson Zeigler Disharoon Gallagher & Gray (2003) 109 Cal.App.4th 1287 , 135 Cal.Rptr.2d 888</i>	Introduction; role of the lawyer; probate & non-probate transfers
Week 2	57-126	Intestate succession- share of spouse and lineal descendents; collaterals, halfbloods, adoption parent-child relationship
Week 3	138-157;190-211	Simultaneous death; Community property; Elective share
Week 4	213-270	Wills: will execution; what is a will?
Week 5	270-321; 335-341 Added case: In re Estate of Duke (2015) 61 Cal.4th 871.	Wills: abatement, exoneration, ademption, lapse; interpretation and construction; Mistake
Week 6	341-388	Wills: revocation; revival; DRR; Will contracts.
Week 7	389-444; Civil Code 1575 revisit: <i>Moore v. Anderson, Zeigler, Disharoon, Gallagher & Gray (2003) 109 Cal. App. 4th 1287</i>	Capacity; undue influence
Week 8	445-506	Fraud; Tortious interference, planning for contests, introduction to trusts

Week 9	506-551	Support & discretionary trusts; revocable living trusts; ethical issues; creditors' rights, spendthrift trusts, asset protection trusts
Week 10	561-620	Termination and modification of trusts; Charitable trusts
Week 11	621-688	Fiduciary duties
Week 12	689-727; 747-783	Revocable Trusts and Other Non-Probate Assets; Powers of appointment
Week 13	785-802; 819-871; 897-912	Estate Taxation; Future interests.; class gifts; Rule Against Perpetuities
Week 14		Course Review
Week 15 Final Exam date TBA Exam period 4/15 thru 4/25/19	EXAM: 3 HOURS – 3 QUESTIONS 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.	

“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.