

Attendance and preparation are mandatory and checked. Since this is an important course for the bar exam, we will refer to and read a lot of Texas law, but the course (and test) primarily concerns the general structure of trusts and wills law.

E-MAILS TO RPALMER@UH.EDU (not the Outlook Express menu item); **SUBJECT LINE:** PALMER

Textbook: *Wills, Trusts and Estates* (8th ed) by Dukeminier, Lindgren, & Sitkoff
Tate: A Texas Companion for the Course in Wills, Trusts and Estates, 2012-2013

Assignments are approximate and are by weeks. The asterisks represent a guess about the probable division between class sessions. Slides used in class will be distributed but it would be dangerous to substitute those for the text in preparation; you learn what you need by going through the cases themselves.

We cover a fair amount of Texas statute in addition to the text. You can tell which of the statutes will actually be necessary for the test by the amount of time spent in class. The test will be predominately about the main text but will include some of the Texas law as indicated by coverage in class.

Week of Jan 15

CHAPTER 1: INTRODUCTION

Section A: The Power to Transmit Property at Death: pp. 1-3; 20-2; 26-38 (Ascher, Langbein, dead hand)

Section B: Transfer of the Decedent's Estate: pp. 38-47, 50-1 (just the will)* (coverage rapid in class) *

Section D: Professional Responsibility: pp. 58-70

Week of Jan 22

CHAPTER 2: INTESTACY: AN ESTATE PLAN BY DEFAULT

Section A: The Basic Scheme: pp. 71-80 [and TPC §38; §41; §43; §45; §47]*

pp. 87-97 (work with both UPC and the Texas Probate Code provisions)

Section B: Transfers to Children: pp. pp. 97-107; 109-125*

Week of Jan 29

130-40 [and TPC, §40; §42; §44; §234]

NOTE will on pages 142-145

Section C: Bars to Succession: pp. 145-51; 152-4; 156-7

CHAPTER 3: WILLS: CAPACITY AND CONTESTS

Section A: Mental Capacity: pp. 157-80, but substitute Tate pp 69-81 for cases in Dukeminier pages 159-64 [and TPC, §10]*

Week of Feb 5

Sections B, C: Undue Influence: pp. 180-207 and Tate pp.82-86

CHAPTER 4: WILLS: FORMALITIES AND FORMS

Section A: Execution of Wills: pp. 223-53 [and TPC, §59, §§61-2]; Tate, pp. 92-99*

Week of Feb 12

Curative Doctrines: pp. 253-85; Tate, pp. 92-94

Section B: Revocation of Wills: pp. 286-307 [and TPC, §60; §63]; Tate, pp. 103-108

Week of Feb 19

Section C: Components of a Will: pp. 307-334 (Skip Johnson v Johnson, pp. 317-23); Tate, pp. 112-115*

CHAPTER 5: CONSTRUCTION OF WILLS

Section A: Mistaken or Ambiguous Evidence: pp. 335-357; Tate, pp. 122-128

Section B: Death of Beneficiary Before Death of Testator: pp. 358-79 [and TPC, §68]; Tate, pp. 130-133

Week of Feb 26

Section C: Changes in Property After Execution of Will: pp. 380-92

CHAPTER 6: NONPROBATE TRANSFERS AND PLANNING FOR INCAPACITY

Section A: Introduction to Will Substitutes: pp. 393-7 (Pay careful attention to Langbein)
Section B: Will Substitutes and the Wills Act: pp. 397-412*
Section C: Will Substitutes and the Subsidiary Law of Wills: pp. 413-32
Section D: Pour-Over Wills and Revocable Trusts in Modern Estate Planning: pp. 436-47 (pay attention to Clymer v. Mayo)

Week of March 5

Section E: Joint Tenancies in Realty: 447-8
Section F: Planning for Incapacity: pp.448-59 (all the way to Sciavo); Tate pp. 140-146.
CHAPTER 7: RESTRICTIONS ON THE POWER OF DISPOSITION: PROTECTION OF THE SPOUSE AND CHILDREN
Section A: Rights of the Surviving Spouse: pp. 469-83, 487-91, 498-501*
pp. 498-519 [and TPC, §§282-3]; Tate, pp. 172-175
Section B: Rights of Descendants Omitted from the Will, pp. 519-21; 527-39 [and TPC, §67]

Week of March 19

CHAPTER 8: TRUSTS: CREATION AND CHARACTERISTICS
Section A: Introduction: pp. 541-57
Section B: Creation of a Trust: pp. 557- 563 (all the way to Nye), 569-72 (all the way to Speelman), 578-96 [and TX Prop Code, §§112.001-112.010, 112.034]; Tate, pp. 179-185, 198-203*
CHAPTER 9: RIGHTS TO DISTRIBUTIONS FROM THE TRUST FUND
Section A: Rights of the Beneficiaries to Distributions: pp. 597-609 (particular attention to Marsman); Section B: Rights of the Beneficiary's Creditors: pp. 609-27, 638-41 [and TX Prop Code, §112.035]

Week of March 26

Section C: Modification and Termination of Trusts: pp. 641-60 [and TX Prop Code, §112.054]; Tate, pp. 215-218
CHAPTER 10: TRUST ADMINISTRATION: THE FIDUCIARY OBLIGATION
Section A: Introduction: pp. 667-75
Section B: The Duty of Loyalty: pp. 675-88
Section C: The Duty of Prudence: pp. 688-725*
Section D: Impartiality and the Principal and Income Problem: pp. 725-36
Section E: Subrules Relating to the Trust Property: pp. 736-8
Section F: Duty to Inform and Account: pp. 738-50

Week of April 2

CHAPTER 11: CHARITABLE TRUSTS pp. 751-69; Tate, pp. 269-274, 276-278
CHAPTER 12: POWERS OF APPOINTMENT: pp. 803-36; Tate, pp. 279-283*
CHAPTER 13: CONSTRUCTION OF TRUSTS: FUTURE INTERESTS
Section A: Introduction: pp. 837
Section B: Classification of Future Interests: pp. 837-45 [and Tx Prop Code, §§5.001, 5.003, 5.041, 5.042, particularly §5.042e]
Section C: Construction of Trust Instruments: pp. 845-62 (pay particular attention to Clobberie's Case)

Week of April 9

pp. 862-74, 876-83*
CHAPTER 14: THE RULE AGAINST PERPETUITIES
Section A: Introduction: pp. 885-8 [and Tx Prop Code, §112.036]
Section B: The Orthodox Rule Against Perpetuities: pp. 888-97
Section C: Perpetuities Reform: 897-900 (particular attention to savings clauses); 905-17 (and TX Prop Code, §5.043]

Week of April 16

Section D: Technical Application of the Rule to Class Gifts
POAs: pp. 917-24
Section E: Other Durational Limits: 925-30

Week of April 23

CHAPTER 15: WEALTH TRANSFER TAXATION

Actual assignments here to be determined based on the recent simplification of the tax law relating to gifts and estates.