

# TRUSTS AND WILLS

SPRING 2014

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PROFESSOR OF LAW

CLASSROOM: BLB 209

TUESDAY, THURSDAY: 10:30 – 11:50A.M.

## I. Purpose of Course.

This course is designed (i) to expose students to the most essential doctrines of the law of trusts and the law of wills in the context of the law of gratuitous transfers in general; (ii) to familiarize students with significant provisions of state statutory laws of relevance in these fields; and (iii) to help students develop critical problem solving skills and understand basic principles of practice in the law of trusts and the law of wills.

## II. Topics to Be Discussed in this Course, Reading Assignments Corresponding thereto, and Dates thereof (Subject to Revision).

<u>DATE</u>	<u>TOPICS</u>	<u>READING ASSIGNMENT</u> <sup>1</sup>
1/14	Introduction to Course Introduction to Probate System Introduction to Will Substitutes	Text: 41-51; 435-440; TEC §§ 256.051-053; 256.151-152; 256.201; 258.001-003; 258.051; 301.002; 301.051- 052; 301.151-152; 303.001- 002; 308.001-003; 308.005; 308.054; 401.001; 402.001- 002; 403.051; 403.055
1/16	Survey of Will Substitutes	Text: 469-490; 493-495; TEC §§ 101.002; 111.051-111.052; 111.054; 113.151; 113.152; 113.1541; 113.154; 113.155; 113.158; 113.252; Tex. Fam. Code § 9.301
1/21	Intestacy: Part I	Text: 63-75; 81-92; 94-98; 101-103; TEC §§ 201.001- 201.003; 201.051-.052;

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<sup>1</sup> Unless otherwise indicated in this syllabus or in class, all reading assignments in this schedule are from the required textbook and supplement (which contains most relevant provisions of the Texas Estates Code (“TEC”) and the Texas Trust Code (“TC”) (codified in the Texas Property Code)). All assignments should be read carefully in advance of class.

		201.056-.057; 201.101; 201.151-.152
1/23	Intestacy: Part II	Text: 108-112; 118-119; 123-145; TEC §§ 201.058; 122.001-.003; 122.051-.052; 122.055-.056; 122.101-.102; 122.107
1/28	Introduction to Wills Mental Competency Absence of Insane Delusion	Text: 265-283; TEC §§ 251.001; 256.152
1/30	Undue Influence Duress Fraud Tortious Interference with Expectancy	Text: 283-291; 300-313; 316-320; 324-326; TEC § 254.005
2/4	Execution of Wills: In General	Text: 147-171; TEC §§ 251.051; 251.101-.104; 254.002; 256.153; <b>Law Practice Scenario 1</b>
2/6	<b>Law Practice Scenario 1</b> Curing Execution Defects Holographic Wills	Text: 171-189; 197-202; TEC §§ 251.052, 251.107
2/11	Holographic Wills (cont.) Revocation of Wills	Text: 202-229; 239-241; TEC §§ 253.002; 123.001-.002
2/13	Dependent Relative Revocation Revival of Wills	Text: 229-239
2/18	Components of a Will Contracts Relating to Wills	Text: 241-263; TEC § 254.004
2/20	Construction of Wills	Text: 327-351
2/25	Lapse and Anti-Lapse of Devises Ademption, Abatement, Exoneration Of Liens, and Satisfaction	Text: 351-361; 367-373; 373-374; 379-384; TEC §§ 255.151-.154; 355.109; 255.301-.303; 355.151; 355.153; 255.101-.102
2/27	Rights of a Surviving Spouse (In General)	Text: 511-527; 536-540; 545-552; TEC §§ 102.004;

		353.051; 102.002-.003; 353.101-.104
3/4	Rights of a Surviving Spouse (cont.) Rights of a Spouse Omitted from Will Rights of Issue Omitted from Will	Text: 552-556; 562-566; 566-577; TEC §§ 255.051-.056
3/6	Introduction to Trusts Intent to Create a Trust	Text: 385-413; TC §§ 111.001-.002; 111.005; 112.001-.009; 112.034; 112.038, 111.0035
3/11	NO CLASS: SPRING BREAK	
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3/18	Trust Property Trust Beneficiaries Written Instrument	Text: 413-427; 431-434; TC §§ 112.004; 112.005; 112.037
3/20	Revocable Trusts	Text: 440-469; TC § 112.051; TEC § 254.001
3/25	Discretionary Trusts Spendthrift Trusts Self-Settled Trusts Trusts for the State Supported	Text: 687-706; 712-717; TC §§ 114.007; 112.035; 113.029
3/27	Modification and Termination of Trusts Trustee Removal	Text: 717-742; TC §§ 112.051; 112.054; 113.081- .083
4/1	Powers of Appointment	Text: 795-821; Tex. Prop. Code §§ 181.001-.083
4/3	Powers of Appointment (cont.) Trust Administration: Part I -- Scope, Nature, and Trustee Powers	Text: 821-832; 579-588; TC §§ 113.001-.002; 113.004- .020; 113.024
4/8	Trust Administration: Part II -- Duty of Loyalty Duty of Prudence in Distribution Decisions	Text: 588-614; TC §§ 113.051 - .055; 113.085; 113.015; 117.007
4/10	Trust Administration: Part III -- Duty of Prudence in Investment	Text: 614-642; TC §§ 114.0821; 114.083-.084,

	Decisions	114.006, 117.001-.012
4/15	Trust Administration: Part IV -- Duty of Prudence in Investment Decisions (cont.) Duty of Prudence in Delegation and Custodial & Administrative Functions	Text: 642-657; TC §§ 117.011; 113.085; <b><i>Law Practice Scenario 2</i></b>
4/17	<b><i>Law Practice Scenario 2</i></b> Trust Administration: Part V -- Duty of Impartiality & Distinguishing Principal and Income Duty to Inform and Account	Text: 657-678; 683-685; TC §§ 116.001-.006; 116.051- .052; 116.101-.103; 116.151; 116.161; 116.176; 116.201- .202; 113.151-.152
4/22	Introduction to Estate Planning: Wealth Transfer Taxes	Supplemental Materials; <b><i>Law Practice Scenario 3</i></b>
4/24	Introduction to Estate Planning (cont.) <b><i>Law Practice Scenario 3</i></b>	
5/1	FINAL EXAM (9:00 a.m.-12:00 p.m.)	

### III. Required Materials.

- A. **Textbook:** JESSE DUKEMINIER AND ROBERT H. SITKOFF (9<sup>th</sup> ed. 2013).
- B. **Supplement:** GERRY BEYER, TEXAS ESTATE PLANNING STATUTES WITH COMMENTARY (2013-2015 ed.).

In addition to these required materials, students occasionally may receive photocopied materials or links to electronic sources to supplement or replace material appearing in the textbook. Students are responsible for reading such materials as assigned.

### IV. Reading Assignments.

Students must read the assigned portions of the required textbook and statutory provisions in accordance with this syllabus. Each reading assignment must be completed by the date corresponding to the assignment in this syllabus.

## **V. Class Participation.**

Students must participate sufficiently and professionally in class (as I determine) in order to pass this course. Within the scope of the foregoing, students should expect to participate in class approximately one day every two weeks, in rotating “on call” fashion. Additional participation will be required when a student has failed to participate satisfactorily in class discussion on a day on which the student is on call. Students who are not expected to be “on call” on a certain day are nonetheless expected to be prepared to participate in class discussion, if necessary.

**In addition to participating in class discussions under the rotating system described in the preceding paragraph, every student is required to study, analyze and respond thoroughly to Law Practice Scenario 1, Law Practice Scenario 2, and Law Practice Scenario 3.** These scenarios are comprehensive exercises designed to help prepare students to represent clients. The scenarios introduce students to hypothetical people with needs for legal representation likely to be encountered in the practice of law. Each student must carefully prepare for each *Law Practice Scenario* prior to the date that it will be discussed in class, as set forth in this syllabus. **I intend to prepare and post video recordings of lectures covering topics assigned on 2/6, 4/17 and 4/24 in order to ensure adequate class time to discuss each Law Practice Scenario. Students are required to view any and all such recordings in advance of the class period for which the corresponding topics are assigned.**

The professionalism expected of students includes (1) **showing respect** for every class member at all times; (2) **diligently preparing in advance** for every class unless you notify me in advance of why you justifiably cannot prepare adequately; and (3) **seriously striving** to learn the material as it is presented in class, even if that requires you to schedule office visits with me and/or participate in a study group.

## **VI. Evaluation.**

Assuming sufficient class participation and professional conduct, a student’s grade will be based upon the student’s performance on the final exam.

## **VII. Office Hours.**

Unless otherwise announced periodically in class, office hours will be Tuesday and Thursday, 1:00-2:30 p.m. (Room 218, TUII), and other times by appointment. I will follow a literal “open door” policy when a student is in my office.

## **VIII. Student Handbook and Compliance with Honor Code.**

Each student is responsible for complying with the requirements governing students in the University of Houston Law Center’s student handbook. With respect to the attendance policy, each student must record his or her class attendance and report to me concerning the same.