

University of Houston

**CLASS ASSIGNMENTS, Spring 2014**

**1. Anatomy of a Will: Necessity for Administration**

Probate Code [Estates Code] Sections to Review: 3 (aa) [22.031], 3 (bb) [31.001], 3 (L) [22.012], 3 (c) [22.017], 37 [101.001, 101.051], 57-60 [251.001, 254.002, 254.003, 251.104], 67 [255.054], 69 [123.001], 145 [401.002, 401.003], 178 [306.001, 306.002], 232 [351.102], 77 [304.001] 78 [304.003], 233 [351.151], 234 [351.051, 351.052]

Case Law to read:

*Banks v Hereford*, 601SW2d 108

*Brannon v Morgan*, 106 SW2d 841

*Pruett v Berkeley* 405 SW 2d 433

**2. Suitability to Serve**

Probate Code [Estates Code]: 77 [304.001], 78 [304.003], 222 [361.051, 361.052], 220 [361.102] 81 [256.052], 73 [256.003], 74 [301.002], 43 [201.101], 58b [254.002, 254.003]

Case Law:

*Pine v. Deblieux* 360 SW3rd 45

*In Re Estate of Ramsay* 2008 WL 2941248

*In Re Estate of Van Meter* 2009 WL 885955

*Schwalbe v Cooper* 211SW2d 585

*Poole v Rutherford* 190 SW2d 146

*In Re Estate of Brimberry* 2006 WL 861483

**3. Locating Wills: Independent Administrations, Dependent Administration, Jurisdiction and Venue, Safekeeping Agreements, Emergency Interventions**

Probate Code [Estates Code]: 4A(b) [32.001], 48 [202.001], 6 [33.001], 8 [33.051, 33.052], 36 B-E [151.001-151.004] 82 [310.052], 71 [252.001], 75 [252.201-252.204], 76 [256.051], 108 [152.001, 152.004], 111 [152.002-152.003], 112 [152.002], 128A(b) [308.002], 194 [305.151-305.155], 81 [256.053-256.054], 82 [301.052], 84 [256.152-256.155], 87 [256.157], 88 [256.151-256.152, 301.152-301.154], 89 [256.201], 40 [201.054], 331-334 [356.001-356.1002, 356.051, 356.101],

Case Law:

*Colonial American Casualty and Surety Co. v Scherer* 214 SW3d 725

*Geeslin v McE/henney* 788 SW2d 683

*Lawyers Surety Corp v Snell* 617SW2d 750

*Mcinnis v Corpus Christi Nat/ Bank* 612 SW2d 451

*Twilligear v. Carrell* 148 SW3rd 502

*Haga v. Thomas* 2013 WL 3716672

#### **4.Lost Wills, Muniments of Title, Alternative Probate with no Administration, Accountings and inventories**

Probate Code [Estates Code]: , 81b [256.054], ,89A,B,C [257.051-257.054, 257.001] . 73(a) [256.003] ,128B [258.051], 180 [301.153], 74[301.002], 52 [203.001], 250 [309.051], 85 [256.156], 52 [203.001] 52A [203.002], 137-138 [205.001, 205.007], 251 [309.052]. 399 [359.001-359.003], 294 [308.051-308.056], 128A [308.002-308.004], 400 [359.101],

Case Law:

*Estate of Catlin* 311SW3rd 697

*Compton v WWV Enterprises* 679 SW2d 668

*In Re Estate of Walker* 250 SW3d 212

**Mid-term Exam will be given out.**

#### **5.Intestacy, Compensation, Disclaimers and Interviewing the Client**

Probate Code [Estates Code]: 3j [22.026], 3o [22.015], 37 [101.001,101.051], 38 [201.001-201.003] 40 [201.054], 45 [201.003], 48-50[201.001-202.005, 202.051-202.056], 34A [51.055], 53A,B,C [204.101-204.103], 241 [352.001-352.004] 37B [122.002, 122.055]

Case Law:

*Welder v Hitchcock* 617 Sw2d 294

*In Re Estate of Boren* 268 SW3rd 841

*State v Estate of Loomis* 553 SW2d 166

*Leggett v US* 120 F 3d 592

**Group Drafting Assignments will be given out and discussed.**

#### **6.Creditors Claims**

Probate Code [Estates Code]: 295 [308.053], 298[355.060,355.001-355.002] 306 [355.151, 355.152, 355.154] ,310 [355.052], 322 [355.102], 328 [355.113], 146 [403.051], 301[355.004, 355.059], 306 [355.151-355.152, 355.154], 308 [355.002], 313 [355.064, 355.066] ,315 [355.111], 318 [355.063], 320 [355.103-355.106],

Case Law:

*City of Austin v Aguilar* 607 SW2d 310

*Childre v Chi/dre* 417 SW2d 464

*Chandler v Welborn* 282 SW2d 940

*Bailey v Cherokee County Appraisal Dist* 862 SW2d 581

*Dyer v Eckols* 808 Sw2d 531

*Cessna Finance Corp b. Morrison* 667 SW2d 580

*Mohseni v Hartman* 363 SW3d 652

*Dudley v Feldt* 2001 WL 1442767

*Green Machinery Co v Smithee* 474 SW2d 279

### **7.Drafting Assignment,Creditor's Claims Cont.**

We will discuss how the group drafting assignment is progressing and finish Creditor Claims.

Mid-point review of previous classes.

No additional reading assignments for this class

### **8 GROUP DRAFTING ASSIGNMENTS DUE-COURT IN SESSION-PROVE UP**

#### **Related Matters in Administration. Contested Matters**

Probate Code [Estates Code]:, 69 [123.001], 93 [256.2004], 95 [501.001-501.008], 222 [361.051-361.052], 131A [451.001-452.006, 452.101], 373 [360.001-360.002], 241(1) [352.002-352.004] 132 [452.051, 452.101], 149 [404.002], 149A,B,C [404.001, 404.003, 405.001], 150 [405.008], 292 [353.106, 353.107], 381 [360.201-360.202], 270 [102.004] 271 [353.051] 272[353.052] 273[353.053] 286 [353.101] 287 [353.102] 288 [353,101], 10[55.001], 93 [256.204], 290 [353.104], 3(r) [22.018], 3(m) [22.013], 12 [53.052-53.054], 322 [355.102], 40 [201.053] Texas Property Code: 42.001, 42.002 , CPRC 37.005 and Estates Code 257.101

Case Law:

*Estate of Vackar* 345 SW3rd 588

*In Re Estate of Casida* 13 SW3rd 519

*Hill v Hi/1623* Sw2d 779

*Noble v Noble* 636 SW2d 551

*In Re O'Quinn* 355 SW 3<sup>rd</sup> 857

*Riley v Riley* 972 SW2d 149

*In Re Estate of Hutchins* 391 SW 3<sup>rd</sup> 578

## **9. MID TERM IS DUE. Pet Parents: Administration Planning for Pets; Non-Testamentary Transfers**

Texas Probate Code [Estates Code]: 250-252 [309.051-309.053, 309.056] 253 [309.002] 254 [309.054] 255 [309.054] 256-259 [309.101-309.104] 260 [309.055], 436 [113.001-113.004], 437 [113.101-113.105] 438 [113.106] 439 [113.151-113.158],  
Texas Property Code 112.037

## **10. Guardianships: Establishing a Guardianship**

Probate Code [Estates Code]: 601(1-9), [1002.001-1002.002, 1002.10,] 601(12) [1002.013] , 601(14) [1002.017], 642 [1055.001], 645 [1054.051-1054.056] 646 {1054.001-1054.005} 647 [1544.004] 648 [1054.103, 1054.104] 648A [1054.151-1054.153], 676 [1104.054] ,677 [1104.101-1104.103, 1104.151-1104.153] , 680 [1104.054], 679 [1104.201-1104.205], 610 [1023.001],681 [1104.351-1104.357], 682 [1101.001], 685 [1101.051-1101.052], 687 [1101.103-1101.104] , 683 [1102.001-1102.005], 683A [1102.003], 677A [1104.152-1104.160], 633 [1051.101-1051.106]

Case Law:

*Subia v Texas Dept Human Services* 750 SW2d 827 (query: Now what is in this case that might apply to a guardianship??)

*In Re Houseman* 66 SW3d 368

*Adcock v Sherling* 923 SW2d 74

*Guardianship of Henson* 551SW2d 136

*Penny v Hampton* 283 SW 599 (not 2<sup>nd</sup> or 3<sup>rd</sup> just SW)

*Phillips v Phillips* 511 SW2d 748

*In Re Guardianship of Norman* 61 SW3d 20

## **11. Guardianships: Administration. Restoration. Compensation and Contested Issues**

Probate Code [Estates Code]: 741 [1163.001-1163.006], 743 [1163.101-1163.105], 767 [1151.051] 768 [1151.101-1151.151], 774 [1151.101-1151.103], 777 [1156.051], 870 [1301.203], 867 [1301.057, 1301.051-1301.056], 889 [1351.001-1351.006, 1352.001-1352.059], 890 [1351.051-1351.057], 665 [1155.002-1155.008], 694A [1202.051-1202.055]  
Contested- 875-877 [1252.051-1251.052, 1251.101-1251.153], 761 [1203.051-1203.056]

Health and Safety Code : 1203.051-1203.056

Case Law:

*Ulrickson v Hawkins* 696 SW2d 704

*Little v Little* 576 SW2d 493

*Frazier v Levi* 440 SW2d 393

In Re LCD 16 SW3rd 153

*Kaplan v Kaplan* 373 SW2d 271

*Stubbs v Ortega* 877 SW2d 718

*Tharp v Blackwell* 570 SW2d 154

## **12. Guardianships Continued; Special Presentation. Caring for Elders**

*In Re Guardianship of Finley* 220 SW3d 608

*In Re Guardianship of Walzel* 2010 WL335686

## **13. Closing a Guardianship Estate**

Probate Code [Estates Code]: 746 [1204.001], 749 [1204.101-1204.102], 753 [1204.107], 665 [1155.002-1155.008]

Case law:

*Carroll v Carroll* 893 SW2d 62

*In Re Guardianship of Bayne* 171SW 3rd 232

*Daves v Daniel* 318 SW 3<sup>rd</sup> 938

Discussion of Special Presentation and Ethical Issues Raised

## **14. Final Review, Wrap up.**

No reading assignment but students should review notes and be prepared with any questions you might have.