

TRUST & WILLS

Syllabus—Spring 2020

Professor: Alan Sanders
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Classroom: TBA

Course Overview and Learning Objective

This course covers the law and policy of the two main legal vehicles for controlling the posthumous distribution of one's property: trusts and wills. Specific coverage includes introductory matters (freedom of disposition and the mechanics of succession); intestate succession (basic structure, transfers to spouses and children, and bars to succession); the law of wills (formalities, contests, and construction); the law of trusts (creation, administration, alienation, appointment powers, and duration); and related issues (pay on death mechanisms and other will substitutes, planning for incapacity, and limits on freedom of disposition).

By successfully completing this course, students will develop a thorough understanding of common law principles governing wills and trusts, corollary aspects of both the Uniform Probate Code and relevant Texas state law, and theoretical and policy issues relating to the posthumous disposition of property. This course is not designed as a "practice skills" environment involving the preparation of sample documents or client management practices, nor is it focused on the application of the course concepts for estate planning concepts and strategies.

Class Meetings

We will meet Mondays and Wednesdays from 9:00 am-10:30 am in TBA. Under Law Center procedures, the class will conclude no later than 10:20 am, in order to allow time for transition to any subsequent users of the classroom space. In order to provide the required instructional time, in view of the fixed conclusion time, class sessions will begin promptly at 9:00 am.

Texts

The main text for this course is Dukeminier et al., *Wills, Trusts, and Estates* (10th ed. 2017). Please feel free to purchase any used copies of this edition of this book. Earlier editions of this text should not be used, because the page numbers will not align with the reading assignments in this syllabus, and also because earlier editions will lack the most recent cases.

Although not a required coursebook, I strongly recommend that you consider obtaining Gerry W. Beyer, *Texas Estate Planning Statutes with Commentary* (2017-2019 ed.). We will have readings that may conveniently be found in this book in addition to the textbook, and while the statutory material is available free online albeit in multiple places, having it at hand may make it much easier to prepare for and participate in class. The library has two copies of this book on reserve.

Readings from the Dukeminier text are indicated as "DS" in the assignment section of this syllabus. Statutory readings are indicated as either "TEC" (referring to the Texas Estate Code) or "TPC" (referring to the Texas Property Code, within which the Texas Trust Code presently is

located). Any other course materials will be appropriately described in this syllabus or posted on BLACKBOARD.

Class Participation

Class sessions primarily will be lecture presentation but will also include some individual student presentation. Students must thoughtfully and timely complete the reading assignments, including both the text and statutory materials.

You should be prepared to participate in class every day. If you cannot properly prepare for class, you can request a pass for that day. In order to request a pass, email me no later than 7:30 a.m. that day and I will not call on you for that class whether or not that day was one specifically assigned for you to make a presentation. You can use a pass in this manner up to 2 times during this semester. Except for the days that you give timely notice for a “pass,” you should be prepared every class day, even if you have not been designated in advance to be called upon to give a presentation on a particular class day.

Early in the semester I will publish a Call-On List. In appropriate circumstances, that List may be modified, such as by exchanging student assignment dates.

Attendance

Attendance is mandatory, and a record of attendance will be taken every class through distribution of an attendance sheet. You must personally initial the sign-in sheet before I leave the classroom. I will always have the attendance sheet at the podium for a brief time period after class for anyone who has not had a chance to initial it. If you do not do so, you will be considered absent even if the attendance sheet does not circulate to you during class, or if you simply forget to initial the sheet. You are responsible for making sure you have initialed the sheet before I leave with it; no retroactive attendance verification will be allowed.

If virtual attendance is arranged by an approved remote access system, your attendance will be tracked under the procedures established by the remote access system.

UHLC’s Honor Code applies to initialing the attendance sheet. Students may initial only their own names, not those of other students. Initialing the name of other students is a violation of the Honor Code. Lack of preparation without a timely pass, excessively early departure or late arrival, or inappropriate behavior during class, may result in your being marked absent even if you physically were present in the classroom for all or some portion of the class period.

In order to comply with UHLC attendance rules you cannot miss more than 6 classes for this course. If you are absent in excess of 6 of our course meetings, I will refer the matter to the academic dean or other administrative office, and that referral may result in your administrative withdrawal from the class or other consequences. Students must keep track of their own absences in addition to complying with the sign in sheet process, in order to monitor their attendance relative to UHLC requirements.

Assessment

Grades will be issued in compliance with the Law Center's grading policy. The grade for this course will be determined by a three-hour final examination. The examination will include at least one essay-type question, and will also include multiple-choice, true-false or similar items that can be handled by a Scantron card. The examination will be Open Book. Grades will not be affected by non-examination factors such as absences, class participation, or lack of preparation.

Laptops and Other Electronic Devices

Laptops or other mobile devices are pervasive in our society, and within a classroom environment they can be beneficial if students use them in an appropriate, nondisruptive, way. If you believe that a classmate's use of their device unreasonably interferes with your learning experience, please feel free to privately let me know about your concern so the situation may be appropriately addressed.

I have arranged for classes to be recorded for audio and video, and anticipate that those files will be made available online. Please reference Blackboard discussion posts for the link to the recordings. Whether or not Law Center recording occurs or is posted online, personal recording of class sessions is prohibited unless necessary for an agreed-upon disability accommodation.

Office Hours and Non-class Student Conferences

As an adjunct professor who lives on Galveston Island, and has a law office both on Galveston Island and in Beaumont, I am not available for set student-access office hours at a fixed location on campus. Therefore, you should contact me by email a fair time in advance and we will make mutually agreeable arrangements for a day, time and place to confer either in person or by telephone. Absent unusual circumstances I will not meet with students during the hour before class, to allow me time to finalize class preparations.

BLACKBOARD

I will maintain a course BLACKBOARD site. It will host course documents (such as latest updated syllabus, PowerPoint slides, audio/video clips of class presentations, as well as other materials) and provide a forum in which students are invited to address procedural and substantive issues or concerns related to the class. Students must stay updated regarding any information posted to the BLACKBOARD site, and should check it regularly. BLACKBOARD can provide alerts for content changes, so you may want to explore enabling that feature.

Professionalism

Students should meet the basic expectations of any professional during our class meetings: arrive on time, be prepared, and stay physically and mentally present throughout class.

****CAPS (this paragraph is now a requirement of the Provost)**

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad

and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html

Preferred Name / Pronoun Syllabus Statement

I will gladly honor your request to address you by an alternate name or gender pronoun. Please advise me of this preference early in the semester so that I may make appropriate changes to my records.

Chosen Names and Preferred Pronouns

I want to address each of you in a manner that corresponds to your identity. I will most often address students by their surnames (*e.g.*, Ms. Smith, Mr. Perez). Recognizing that mistakes may unfortunately happen, chosen names and preferred pronouns—including non-binary ones such as they/them/their—will be respected in our classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronoun or if you have concerns about how I or your classmates address you.

Pronominal Preferences

I go by Professor Sanders. Typically I use she/he/they, and hers/his/theirs, and perhaps you/y'all/your, as my pronouns. Please reach out to me in person, by e-mail, or by phone if you have preferred pronouns you would like for me to use in referring to you, or if you favor a particular prefix, like "Dr." or "Mx.," instead of "Mr." or "Ms." I'll try my best to honor your preferences. Please attribute any lapses on my part to failings of memory. And, please do not feel embarrassed or hesitant, or be concerned about an adverse reaction by me, to correct me if I make any mistakes regarding preferred pronouns about which you have advised me.

COURSE TOPICS & READINGS: TRUSTS & WILLS: SPRING 2020

I. Introduction

Date	Topic	Reading

II. Intestate succession

Date	Topic	Reading

III. Wills

Date	Topic	Reading

IV. Trusts

Date	Topic	Reading

V. Beyond Wills and Trusts

Date	Topic	Reading