

EMPIRE COLLEGE SCHOOL OF LAW

SYLLABUS

- COURSE NUMBER: F350.3
- COURSE NAME: WILLS & TRUSTS
- TOTAL HOURS/UNITS: 45 hours- 3 units
- PROFESSOR: Bradford J. DeMeo
- PREREQUISITES: Successful completion of all first and second year course work.
- SEMESTER: Fall 2011
- TIME: Wednesday, 6:00-9:00 p.m.
- REQUIRED TEXT:
1. Wills, Trusts, And Estates, Dukeminier (8th Edition, 2005)
  2. Deerings California Probate Code, Lexis/Nexis (2011 Edition) or equivalent California Probate Code such as McGovern's, West's, or other publisher's compilation of the entire probate code.

COURSE DESCRIPTION: 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.

The text presents a somewhat different approach to the study of law than other casebooks. We will cover approximately 150 principal cases during the Fall 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. **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.**

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

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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”.

**CLASS ATTENDANCE:** Students must attend no less than 12 of the class sessions during the Fall 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.

### GRADING POLICIES

Grade Scale:	90% - 100%	A	Outstanding
	80% - 89%	B	Superior
	70% - 79%	C	Satisfactory
	65% - 69%	D	Unsatisfactory
	Below 65%		Fail/No Credit

**Grade Determination:** The grade will be based upon the results of a 3-question Fall semester final exam. Passing score is 65 points out of 100 possible. A course requirement is that each student present in class at least four of our principal cases. 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.

“Where there’s a Will, there’s a relative” J.N. DeMeo, Attorney/Author

“Money is thicker than blood!” J.N. DeMeo

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**Class Assignments – Wills & Trusts  
Fall 2011 (Dukeminier)**

WEEK 1: Pages 1 – 45 & 71-97	Chapter 1 - Introduction: Estate Planning The Right to Inherit and Right to Convey Policies of Transferring Wealth on Death Transfer of the Decedent's Estate
	Chapter 2 - Intestacy – Estate Plan by Default Basic Scheme
WEEK 2: Pages 97 - 157	Transfers to Children Bars to Succession
WEEK 3: Pages 159-221	Chapter 3 - Wills: Capacity and Contests Mental Capacity Undue Influence Fraud Duress Tortious Interference with Expectancy
WEEK 4: Pages 223-285	Chapter 4 - Wills: Formalities and Forms Execution of Wills Execution (cont'd.) Curing Defects Holographic Wills
WEEK 5: Pages 286-357	Revocation of Wills Components of a Will Contracts relating to Wills
	Chapter 5 – Construction of Wills
WEEK 6: Pages 358-412	Death of Beneficiary Before Testator Changes in Property After Execution of Will
	Chapter 6 – Intro to Non-probate Transfers
WEEK 7: Pages 413-436 & 469-519	Wills Substitutes & Subsidiary Law of Wills
	Chapter 7 – Restrictions on the Power of Distribution: Protection of Spouse & Children Rights of Surviving Spouse

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WEEK 8: 519-596	Rights of Omitted Children Chapter 8 – Trusts: Introduction and Creation
WEEK 9: 597-675	Chapter 9 – Rights to Distribution From Trust Fund Rights of Beneficiary’s Creditors Modification and Termination of Trusts Chapter 10 – Trust Administration: The Fiduciary Introduction
WEEK 10: 675-750	Duty of Loyalty (Fidelity) Duty of Prudence Duty of Impartiality Subrules and Sub-Duties Duty to Inform and Account
WEEK 11: 751-802	Chapter 11 – Charitable Trusts
WEEK 12: 803-862	Chapter 12 – Powers of Appointment Chapter 13 – Future Interests/Construction of Trusts
WEEK 13: 862-930	Gifts to Classes Chapter 14 – Rule Against Perpetuities
WEEK 14:	Community Property – Supplemental Materials Course Review
WEEK 15:	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.