EMPIRE COLLEGE SCHOOL OF LAW

SYLLABUS

COURSE NUMBER:	F350/S350
COURSE NAME:	WILLS & TRUSTS
TOTAL HOURS/UNITS:	60 hours- 4 units
PROFESSOR:	Bradford J. DeMeo
PREREQUISITES:	Successful completion of all first and second year course work.
SEMESTER:	Fall 2010/Spring 2011
TIME:	Wednesday, 6:00-8:15 p.m.

REQUIRED TEXT:

1. Wills, Trusts, And Estates, Dukeminier & Johanson (8th Edition, 2005)

2. Deerings California Probate Code, Lexis/Nexis (2010 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 80 principal cases during the Fall semester and approximately the same number during the Spring 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 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. <u>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</u>. Occasionally, other areas of law invade our study of wills and trusts. For instance, torts in the study of tortuous 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 and 12 of the class sessions during the Spring semester to pass this course. Roll will be taken at each class after the break. Attendance of less than the full two 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%	F	No Credit

Grade Determination: The grade will be based upon the results of a 2-question Fall semester mid-term exam and a Spring semester final exam. The Fall examination will be worth fifty percent (50%) of the final grade for this class. The spring examination will be worth fifty percent (50%) of the final grade for this class. Passing score is 65 points out of 100 possible. <u>A course requirement is that each student present in class at lease two of our principal cases each semester</u>. While you are not expected to carry the class discussion for more than 15 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

Class Assignments - Wills
Fall 2010 (Dukeminier)

WEEK 1: Pages 1 - 58	Chapter 1 - Introduction: Estate Planning A. The Right to Inherit and Right to Convey and Policies of Transferring Wealth on Death B. Transfer of the Decedent's Estate C. Estate Planning Problem
WEEK 2: Pages 58 - 97	D. Professional Responsibility Chapter 2 - Intestacy - Estate Plan by Default A. Basic Scheme
WEEK 3: Pages 97-133	B. Transfers to Children
WEEK 4: Pages 133-171	C. Bars to Succession Chapter 3 - Wills: Capacity and Contests A. Mental Capacity
WEEK 5: Pages 171-207	B. Undue Influence
WEEK 6: Pages 207-246	C. Fraud D. Duress E. Tortious Interference with Expectancy Chapter 4 - Wills: Formalities and Forms A. Execution of Wills
WEEK 7: Pages 246-285	A. Execution (cont'd.) Curing Defects
WEEK 8: Pages 286-325	B. Revocation of Will C. Components of the Will
WEEK 9: Pages 325-363	D. Contracts Relating to Wills

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Chapter 5 – Construction of Wills

A. Mistake or Ambiguous Language in Wills
B. Death of Beneficiary Before Death of Testator

WEEK 10: Pages 364-392
B. (cont'd.) Antilapse
C. Changes in Property After Execution of Will

WEEK 11: Pages 393-435 Chapter 6 – Nonprobate Transfers and Planning for Incapacity
A. Will Subsitutes
B. Trusts, P.O.D.
C. The Subsidiary Law of Wills

WEEK 12: Pages 436-487
D. Modern Planning
E. Joint Tenancies
F. Incapacity

WEEK 13: Pages 487-496; 502-518

Chapter 7 – Spouse and Family Protection
A. Rights of the Surviving Spouse
B. Community Property – Supplemental Materials

WEEK 14: Pages 519-539
C. Descendents Rights; Omitted Heirs

WEEK 15: MID-TERM EXAM: 2 HOURS-2QUESTIONS

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.

Class Assignments-Trusts
Spring 2011 (Dukeminier)

Week1:	pp.	541-578	Trusts: Introduction Creation
Week 2:	pp.	578-609	Creation, cont'd. Rights of Beneficiaries

Week 3:	pp.	609-641	Rights of Beneficiaries' Creditors
Week 4:	pp.	641-675	Modificaiton & Termination of Trusts Fiduciary Obligation Introduction
Week 5:	pp.	675-702	Duty of Loyalty Duty of Prudence
Week 6:	pp.	7702-736	Risk, Return & Diversification of Investments
Week 7:	pp.	736-760	Sub-Rules RE: Trust Property Management Charitable Trusts Introduction
Week 8:	pp.	760-787	Modification of Charitable Trusts/Cy Pres Supervision of Charitable Trusts
Week 9:	pp.	788-826	Powers of Appointment
Week 10:	pp.	826-853	Release of Power of Appointment Construction of Trusts
Week 11:	pp.	853-883	Survivorship and Class Closing Rules
Week 12:	pp.	885-917	RAP (Rule Against Perpetuities)
Week 13:	pp.	917-930	RAP & Class Gifts/Powers of Appointment Taxes (Time permitting)
Week 14:	pp.	931-942; 948-959	Gift and Estate Tax

Week 15: FINAL: 2 HOURS-2 QUESTIONS

The 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 by a discussion of the controlling legal principles and rules.