



UNIVERSITY OF
FLORIDA

Fredric G. Levin College of Law

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TRUSTS & ESTATES – LAW 6430
ROOM HH 285-B
TUES, WED, & THURS.: 9:00 - 10:15
OFFICE HOURS: TUES& WED.: 10:30 - 11:30

TRUSTS & ESTATES Course Syllabus: Fall 2023

*“Never say you know a man till you
have divided an inheritance with him.”*

- Johann Kaspar Lavater

REQUIRED TEXTS.

The required text is Sitkoff & Dukeminier, WILLS, TRUSTS, AND ESTATES (11th Edition, Aspen Publishers). You may also wish to purchase Thomas P. Gallanis, UNIFORM TRUST AND ESTATE STATUTES (Foundation Press). Some students, however, prefer to download the statutes and corresponding commentary instead of purchasing the Uniform Statutes.

USEFUL SECONDARY SOURCES.

Useful secondary sources are: (i) McGovern & Kurtz, CONCISE HORNBOOK – PRINCIPALS OF WILLS, TRUSTS AND ESTATES; and (ii) Gerry W. Beyer, WILLS TRUSTS AND ESTATES: EXAMPLES & EXPLANATIONS (Aspen Publishers). Feel free to consult these sources (located in the library) if the need arises during the semester.

OFFICE HOURS.

My office is located at 353 Holland Hall. My office hours are on Tuesdays and Wednesdays, 10:30 – 11:30. Also, I am happy to make appointments to meet in the office or to speak by telephone at mutually agreeable times. I can be available most days and am very accessible.

In addition, I am amenable to on-campus “bring-or-buy-your own lunch” meetings with small groups of students. If you would like an opportunity for this type of informal group discussion (whether about this class, T&E practice in general or other topics), feel

free to organize a few classmates and we can pick a date to meet that is mutually convenient. I look forward to getting to know you.

ATTENDANCE AND SEATING CHART.

Attendance is required. Accordingly, students must sign an attendance roster circulated at the beginning of each class meeting. ***No student will be permitted to sign the attendance roster after class.*** A student with more than five (5) unexcused absences (as established by failure to sign the attendance roster) should expect to have his or her final grade lowered by as much as one level (*e.g.*, from A to A-), but in my sole and absolute discretion. A student with more than eight (8) excused or unexcused absences may be administratively dropped from this class at my sole and absolute discretion.

After the drop/add period closes, I will circulate a seating chart. Your seat on that day of class will be your seat for the entire semester.

CLASSROOM CONDUCT.

You are welcome to take class notes on a laptop computer. Except for taking class notes, no other use of computers (and the internet) during class is authorized for any reason unless I specify to the contrary.

Our classroom is a community of learners in which the quality of your participation is important. Please prepare for class, participate energetically and conduct yourself professionally.

I will randomly call on students in class. Students should be prepared and ready to discuss the materials from the reading.

You are professionals. Please dress and act accordingly.

COURSE COVERAGE.

Specific assignments will be posted on the Canvas site on a weekly or bi-weekly basis. In addition, you may refer to the tentative course outline on the Canvas site as general guideline for reading assignments and as a study aid.

Naked page numbers refer to the Casebook. The term “UPC” refers to the Uniform Probate Code, the term “UTC” refers to the Uniform Trust Code and the term “F.S.” refers to Florida Statutes. For assigned provisions of the UPC and the UTC, you should read the statutory text **AND** look at the official comment, if any.

Students should expect to spend, on average, approximately two hours preparing for every hour of class

WORKLOAD/CLASS PREPARATION AND THE 2:1 OUT OF CLASS/IN CLASS REQUIREMENT (ABA STANDARD 310):

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. This class has 4 “classroom hours” of in-class instruction each week, requiring at least 8 hours of preparation outside of class.

COURSE GOALS AND LEARNING OBJECTIVES.

We will spend a significant portion of our class time discussing case law, restatements, and model rules (UPC and UTC), as well as the policy concerns that underpin the decisions and rules in this area. T&E is a highly tested and useful area of law, so it is vital for students to be knowledgeable about the rules, have the ability to critically analyze legal arguments, and begin to gain familiarity with the implementation of theory into practice.

One goal of the course is to acquaint you with the substantive law which is derived from numerous sources, including case law, treatises, model rules, and restatements. Part of becoming acquainted with substantive law in any area is learning how to navigate when there are many sources of law that may experience reform and at times conflict with each other.

The second goal of the course is to consider larger, thematic questions about the nature of legal regulation of individuals, the relationship between the state and individuals, the breadth and/or limits of donative freedom, and related concerns that help us understand how and why the rules are evolving.

Finally, a goal of the course is to further develop your problem solving and communication skills. Bringing together policy, rules, and facts into a cogent, justifiable argument is a skill that accomplished lawyers use to persuade and illuminate complex issues. By thinking through the problems, you will have the opportunity to learn, practice, develop, and master several legal skills including the following:

- Identify, describe and explain the substantive law of T&E, and its underlying policies.
- Appreciate the concept of donative freedom and develop your own consistent ideology concerning the breadth and limitations of donative freedom.
- Critically read assigned cases, contemplate whether the outcome furthers or restricts the underlying policy behind the substantive law, and compare the outcome to your own developing ideology of donative freedom.
- Demonstrate the ability to explain the various legal arguments that might be made about how/why the rules should apply.

- Hone the ability to take a set of facts that raise legal issues, identify the black letter law, and articulate an argument to resolve the legal issues.
- Think critically about the role of law and lawyers over time as societal behaviors and norms change.
- Improve your analytical and communicative skills of legal dilemmas.

FINAL EXAMINATION AND GRADING.

Each student's class grade will be based principally on the final exam. I reserve the right, however, to increase a student's grade by one level (*e.g.*, from B to B+) based on exceptional classroom performance. Conversely, I reserve the right to reduce a student's grade by one level (*e.g.*, from B+ to B) based on poor classroom performance.

Any increase or reduction of a student's grade based on classroom performance will be determined by me at my sole and absolute discretion. In assessing a student's performance, I will take into account the degree of preparedness in advance of class, the willingness to respond thoughtfully to questions and issues raised in class, the quality of contributions to class discussion through speaking and listening, relevant and thoughtful postings and responses on the class Canvass site, class attendance, punctuality and/or disruptive behavior, among other factors.

The law school policy on delay in taking exams can be found at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#12>.

INFORMATION ON UF LAW GRADING POLICIES.

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

The law school grading policy is available here: [here](#).

CLASS RECORDINGS.

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A "class lecture" is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To "publish" means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

STUDENT COURSE EVALUATIONS.

Students can provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will receive notice of the specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

STATEMENT RELATED TO ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES.

Students requesting classroom accommodation must first register with the Office of Disability Resources. The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.

UF Levin College of Law Standard Syllabus Policies:

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link:

<https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

ASSIGNMENTS

WEEK 1

The required text is Sitkoff & Dukeminier, WILLS, TRUSTS, AND ESTATES)(11th Edition, Aspen Publishers). You may also wish to purchase Thomas P. Gallanis, UNIFORM TRUST AND ESTATE STATUTES (Foundation Press). Some students, however, prefer to download the statutes and corresponding commentary instead of purchasing the Uniform Statutes. It's up to you ...

Please register for our Canvas site. Please download and read course Syllabus from Canvas.

Be prepared to discuss the following:

Terms.

1. Testamentary Transfers- pertaining to a Will or Testament. Will is used largely for Testament, but adjective "testamentary" is still used, for example a trust created under a Will is a testamentary trust. A Testamentary transfer is one by Will, as opposed to . . .
2. *Inter Vivos* Transfers – "between the living" (*i.e.*, *inter vivos* trusts, or living trusts)
3. Succession
4. Testamentary Freedom or Freedom of Disposition
5. Intestacy/Intestate – without a Will
6. Testate/Will
7. Trust
8. Bequeath, bequest (legatees) – a gift of personal property in a Will
9. Devise (devisees) – a gift of land.
10. Residuary Estate
11. Gift
12. Decedent
13. Testator/Testatrix
14. Personal Representative (Executor/Executrix; Administrator/Administratrix)
15. Trustee

16. Probate Property
17. Non-Probate Property
18. “Going through Probate”
19. “Proving a Will”
20. Joint Tenancy
21. Life Insurance
22. Payable on Death (P.O.D.) Contracts

INTRODUCTION TO DONATIVE FREEDOM.

Read Syllabus

Casebook: Pages 1-43, and 51-53

In addition, please also read *Shriners Hospitals v. Zrillic*, 563 So.2d 64 (Fla. 1990)