

BLAW 409 WILLS, ESTATES AND TRUSTS

Fall 2009

Monday and Wednesday 12:30 PM

K. Greenhalgh

OFFICE HOURS: Monday 11 AM -- Noon;
Wednesday 8:15 AM – 9:15 AM;
Friday 9:45 AM – 10:45 AM and by appointment.
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TEXTBOOK: Eugene F. Scoles, *et. al.*, *Problems and Materials on Decedents= Estates and Trusts*, 7th edition.

METHOD OF INSTRUCTION AND CLASS PARTICIPATION:

This class will be taught by a combination of the lecture and class discussion methods. Discussion in class is a very important part of this course. All students are expected to be prepared to discuss the cases and problems assigned for each class. Students will be called upon to participate in class discussion. The instructor will evaluate each student's class participation. While no numerical weight will be assigned to class participation for grading purposes, class participation will be considered in determining the course grade when a student's performance on the exams and written homework assignments places that student on the borderline between two grades.

Every student will be excused for being unprepared to participate in class discussion on two class days during the semester. A student who is not prepared should leave a note with the instructor before the beginning of the class containing the student's name and indicating that he or she is not prepared to discuss that day's assignments.

TESTS AND GRADING: There will be two exams. Each test will count for 50% of the course grade. The tests may include essay questions; tests may also include multiple choice and true-false questions.

The course will be graded on a + and - basis. This means that in addition to such letter grades as "A" and "C", grades such as "A-" and "C+" will also be used.

I will be happy to discuss a test or your grade with you, but the grade assigned is not subject to negotiation. The grade will be changed only if I have made a clear mistake in evaluating the exam or calculating the grade.

The tests and homework assignments will be graded on a scale with a maximum score of 100 points. Letter grades for the course will be based on the total score earned on all tests and homework assignments in accordance with the following scale:

- 95% or more of the total points possible: A
- 90% or more of the total points possible: A-
- 87% or more of the total points possible: B+
- 84% or more of the total points possible: B
- 80% or more of the total points possible: B-
- 77% or more of the total points possible: C+
- 74% or more of the total points possible: C
- 70% or more of the total points possible: C-
- 67% or more of the total points possible: D+
- 64% or more of the total points possible: D

60% or more of the total points possible: D-

Less than 60% of the total points possible: F

The instructor may award a grade higher than the grade indicated in the scale listed above for good reasons. For example a higher grade may be awarded to a student who has an outstanding record of class participation.

I will be happy to discuss a test or your grade with you, but the grade assigned is not subject to negotiation. The grade will be changed only if I have made a clear mistake in evaluating the exam or calculating the grade.

MISSED EXAMS: No make-up exams will be given. If a student is unable to take the first exam, he or she must produce documentary evidence establishing a valid excuse for failure to take the exam. If this is done the course grade will be determined by the final exam and the homework assignments. If no valid excuse is established, the missed exam will be counted as an "F". If a student knows in advance that he or she will be absent for good reason on the day that the test is to be given, it may be possible to arrange for an alternative test time. Arrangements must be made in advance with the instructor. If a student is unable to take the final exam, he or she must apply for an Incomplete in accordance with University regulations.

ATTENDANCE:

Students are expected to attend all class sessions. Each student will be excused from two absences during the course of the semester -- failure to attend class on these two days will not affect the course grade. Being absent from class for more than two class periods can result in the reduction of a student's grade by one grade interval for each absence from the grade to which that student would be entitled based on the exams and written course assignments. For example this means that one three absences during the semester could lead to a student's grade being reduced from "B" to "B-". The total reduction in the grade for absences from class will be limited to one full grade. (This means for example that a student otherwise entitled to receive a grade of "B" could instead receive a "C" if that student was absent from class on 5 or more days during the

semester.)

Students may be excused from class attendance for good cause (such as serious illness). A student will be excused for such reasons only upon production of documentary evidence of the cause for missing the class periods. (For example if a student missed class due to illness a written statement from a medical doctor would be necessary for the absences to be excused.)

SYLLABUS OF TOPICS

Students should read and brief *all cases* included within the assigned pages from the textbook. Students should also read and be prepared to discuss *all problems* contained within the assigned pages.

The items mentioned in this list of assignments under the heading COURSE MATERIALS are handouts that will be distributed to all students by e-mail.

Week of 24 August: Estates in Land; Possessory and Future Interests.

COURSE MATERIALS: *Estates in Land*; Discussion Problems.

Week of 31 August: Community Property.

COURSE MATERIALS: *Community Property* and *Community PropertyB Supplemental Topics*.

Cases:

Discussion Problems:

The class will not meet on 7 September (Labor Day Holiday).

9 September: Gifts: *Inter Vivos* and *Causa Mortis*

COURSE MATERIALS: *Gifts*.

Week of 14 September: Intestate Succession: Shares of the Spouse and Others.

TEXT: Pages 27-39.

COURSE MATERIALS: *California Intestate Succession*.

21 September through 30 September: Intestate Succession: Definition and Status of Intestate Heirs.

TEXT: 39-67.

COURSE MATERIALS: *Intestate Succession Supplemental Topics*.

Week of 5 October: Elective Share and Other Limitations on Inheritance.

TEXT: 69-100.

COURSE MATERIALS: *Limitations on Testamentary Disposition.*

Week of 12 October: Testamentary Capacity and Will Contests

TEXT: 115-116; 127-149; 179-186.

COURSE MATERIALS: *Pretermitted Heirs* (handout) *Wills Capacity and Defenses* (handout); *Estate of Mann* (case).

19 October: Review.

21 October: Exam I.

Week of 26 October: Wills: Execution, Interpretation and Integration.

TEXT: 101-115; 116-127; 151-179.

COURSE MATERIALS: *California Law of Wills* (handout); *Law of Wills – Brazil* (handout); *Wills – International* (handout).

Week of 2 November: Wills: Revocation and Revival

TEXT: 187-206.

Week of 9 November: Wills: Changes in Property and Beneficiaries after Execution.

TEXT: 385-442.

COURSE MATERIALS: *Ademption*.

Week of 16 November: Will Contracts and Substitutes.

TEXT: 207-222.

COURSE MATERIALS: *Contracts to Make a Will*.

Week of 23 November: Trusts.

TEXT: 299-301; 307-323; 471-475; 477-479; 496-500; 503-507; 527-534; 537-539; 572-574; 593-604; 612-614.

COURSE MATERIALS: *Trusts*.

Week of 30 November: Federal Estate and Gift Taxation; Fiduciary Administration.

TEXT: 269-275; 665-668; 747-754; 800-811; 819-823.

7 December: Review.

9 December: Exam II