WILLS, TRUSTS, AND ESTATES

CLASS INFORMATION & SYLLABUS Winter 2012

Professor Gerry W. Beyer

Visiting Professor of Law
The Ohio State University Moritz College of Law

Course Materials

GERRY W. BEYER, WILLS, TRUSTS, AND ESTATES – EXAMPLES & EXPLANATIONS (4th ed. 2007).

Contact Information:

Office: 212

Telephone (office): (614) 292-8161 (If I am not in my office when you call, please leave a message on the voice mail system and I will return your call.)

Fax: (978) 285-7941

Home: (806) 698-9334 (If I am not home, please leave a message with Margaret or on our voicemail and I will return your call.)

E-mail: gwb@ProfessorBeyer.com

Website: http://www.ProfessorBeyer.com

Blog: http://www.BeyerBlog.com

Twitter: Gerry_Beyer

Office Hours:

Whenever I am in my office — below are typical times (but subject to change):

Monday through Thursday:

10:10 a.m. to 11:00 a.m. 1:00 p.m. to 4:30 p.m.

E-mail List:

It is *essential* that you register for e-mail updates as these updates serve as the <u>official</u> source of all class announcements. Please submit your name and preferred e-mail address to me directly or via e-mail if you are not already receiving class announcements.

Attendance:

- You are expected to attend every class meeting.
- Prompt Arrival: You are expected to be in your seat and ready to begin when class is scheduled to start. It is unprofessional and impolite to arrive at or after the start of class.
- Tardy: You are tardy if you (1) arrive late, (2) leave early, or (3) leave in the middle of class and return. Three tardies equates to one absence. (If you are really creative, you could come late, leave and return during class, and then leave early and get one absence in one day even though you are in class for awhile!)
- Excessive Absences: Other than in exceptional circumstances, if you accrue six (6) or more absences, you will be automatically dropped from this course. Notice will be provided after the fifth absence. You may petition for relief from this rule by submitting a sworn affidavit along with supporting materials to document the reason for your absences. Note that your petition must show a justifiable reason for *all* your absences, not just the sixth and subsequent absences.

Class Preparation:

- You must be prepared for every class.
- You must be prepared to discuss the assigned material.
- Your final grade is subject to reduction for being unprepared.

Technology Etiquette:

- Turn off all mobile communication devices such as cellular telephones and pagers prior to the beginning of class.
- Boot up computers before class starts.
- Turn off computer audio.
- Disable distracting screen savers.
- Use an adequately charged battery or a power cord to avoid running out of power and the associated low battery warning noises.

Do not use your computer for purposes that are not related to class. For example, do not write or reply to e-mail or instant messages, surf the Internet, tweet, work on your Facebook or MySpace page, etc.

Syllabus:

Assignments are subject to change. Updates will be sent to all students via e-mail.

<u>Date</u>	<u>Topic</u>	Assignment
	Introduction	
January 9, 2012	Introduction and Class Procedure	
	Overview and Terminology	1-9
	INTESTATE SUCCESSION	
January 10, 2012	Introduction	13-18
	Surviving Spouse	18-20
January 11, 2012	Descendants	20-30
January 16, 2012	No class – Martin Luther King Day	
January 17, 2012	Ancestors and Collaterals	31-36
	Escheat	36
	Posthumous Heirs	37-38
January 18, 2012	Adopted Individuals	38-41
	Non-Marital Children	42-43
	Children From Alternative Reproduction	43
	Stepchildren	44
January 23, 2012	Half-Blooded Collateral Heirs	44-46
	Non-United States Citizens	46
	Unworthy Heirs	47-52

<u>Date</u>	<u>Topic</u>	Assignment
	Non-marital Partners	52
	Ancestral Property	53-54
	Advancements	54-58
January 24, 2012	Survival	58-61
	Disclaimers	61-64
	Assignment or Release of Expectancy	65-66
	Equitable Conversion	66
	Liability for Predeceased Intermediary's Debts	67
January 25, 2012	Heir Designation	68
	Choice of Law	68
	WILLS	
	Introduction	71-72
	Legal Capacity	72-74
January 30, 2012	Testamentary Capacity	74-81
	Testamentary Intent	81-82
January 31, 2012	Formalities — Generally	83
	Formalities — Attested Wills	84-106
February 1, 2012	Formalities — Holographic Wills	106-110
	Formalities — Nuncupative Wills	110-111
	Formalities — Soldiers' and Seamen's Wills	112
	Formalities — Statutory Wills	112-114
	Classification of Testamentary Gifts	115-118

<u>Date</u>	Topic	<u>Assignment</u>
February 6, 2012	Ademption by Extinction	118-122
	Ademption by Satisfaction	122-124
	Changes in Value	125-128
February 7, 2012	Exoneration	128-129
	Abatement	129-131
	Tax Apportionment	131-132
	Marriage of Testator	133-138
February 8, 2012	Divorce of Testator	138-140
	Pretermitted Heirs	141-144
February 13, 2012	Death of Beneficiary (Lapse)	145-148
	Failure of Charitable Gift (Cy Pres)	148-150
February 14, 2012	Survival	150-151
	Revocation by Operation of Law	153-156
	Revocation by Physical Act	156-163
February 15, 2012	Revocation by Subsequent Writing	163-165
	Presumptions	166-167
	Revival	167-168
February 20, 2012	Conditional Revocation	169-173
	Multiple Originals	173-174
	Interpretation and Construction — Introduction	175-176
February 21, 2012	Ambiguity	177-181
	Integration	181-183

<u>Date</u>	<u>Topic</u>	Assignment
	Incorporation by Reference	183-188
	Facts of Independent Significance	188-192
February 22, 2012	Tangible Personal Property Document	192
	Pour-Over Provisions	192-196
	Precatory Language	196-197
	Class Gifts	198-201
	Dead Person's Statute	201
February 27, 2012	Will Contests — Introduction	203-204
	Failure to Satisfy Will Requirements	204
	Insane Delusions	205-208
February 28, 2012	Undue Influence	208-215
	Duress	215
	Fraud	216-219
February 29, 2012	Mistake	219-221
	Remedies	221-222
	Preventing Will Contests	222-232
	Tortious Interference with Expectancy	232-233
	Conditional Wills	235-236
March 5, 2012	Conditional Gifts	236-239
	Combination Wills (Joint, Reciprocal, Contract)	239-244
	Election Wills	244-246
	Disclaimer	246

<u>Date</u>	<u>Topic</u>	Assignment
	ESTATE ADMINISTRATION	
March 6, 2012	Generally	249-266
March 7, 2012	[continued]	
	Non-Probate Transfers	
	Generally	267-321
March 12, 2012	[continued]	
	Trusts	
March 13, 2012	Introduction	323-334
	Trust Intent	334-347
	Methods of Trust Creation	348-351
March 14, 2012	The Settlor	351-353
	Statute of Frauds	353-359
	Trust Purposes	359-364
March 19-21, 2012	No classes – Spring Break	
March 26, 2012	Trust Property	364-367
	The Trustee	367-372
March 27, 2012	The Beneficiary — Generally	372-375
	Honorary Trusts	375-376
	Incidental Beneficiaries	376-377
March 28, 2012	Disclaimers	377
	Voluntary and Involuntary Transfers	377-379
	Spendthrift Restrictions	379-384

<u>Date</u>	<u>Topic</u>	Assignment
	Discretionary Provisions	384-387
April 2, 2012	Support Provisions	388-390
	Pour-Over Provisions	390
	Life Insurance Trusts	390-392
April 3, 2012	Rule Against Perpetuities	392-395
	Charitable Trusts	396-402
April 4, 2012	Overview of Trust Administration	403-408
	Trust Investments and Standard of Care	408-417
	Trustee Powers	418-423
April 9, 2012	Trust Distributions	423-425
	Duty of Loyalty (Self Dealing & Conflicts)	425-431
April 10, 2012	Liability of Trustee to Third Parties	431-436
	Allocation of Receipts and Expenses	437-449
	Accountings	449-451
	Trustee Compensation	451-453
April 11, 2012	Trust Modification — By Court	453-456
	Trust Modification — By Parties	456-457
	Trust Termination	457-461
	Reformation	461
April 16, 2012	Trust Enforcement — Procedural Matters	463-465
	Remedies Against the Trustee	465-471
April 17, 2012	Remedies Involving Trust Property	471-476

<u>Date</u>	<u>Topic</u>	Assignment
	Remedies Against the Beneficiary	476
	Causes of Action Against Third Parties	477
	Barring of Remedies	477-482
	OTHER ISSUES	
April 18, 2012	Resulting Trusts	483-488
	Constructive Trusts	489-494
	Trust Bank Accounts	305-310
	Introduction to Wealth Transfer Taxation	497-498
April 23, 2012	Introduction to Disability and Death Planning	575-576
	Malpractice and Professional Responsibility	607-614
	Conclusion	
	Final Thoughts Examination Information	
May 7, 2012	Examination	