

**WESTERN STATE UNIVERSITY
COLLEGE OF LAW**

**FAMILY LAW
Syllabus and Reading Assignments**

Course: Family Law 437A
Semester: Spring 2013
Days: Saturday
Times: 9:00a -12:30p
Revision: 1-18-2013

Professor: Fouste
Office: 714-549-3889
Facsimile: 866-378-2471
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Office Hours: By Appointment

COURSE OBJECTIVES:

This course surveys the law of family relations, including the law of marriage and annulment, divorce, legitimacy of children, custody and adoption. The course reviews the formation, maintenance, and dissolution of the family unit, including custody, support, and property rights involving spouses, partners and children. On completion of this course, the student will have a fundamental understanding of family law concepts.

TEXTBOOKS:

Required: FAMILY LAW CASES, MATERIALS & PROBLEMS (3rd Edition)
Swisher, Miller and Shapo, LexisNexis

Recommended: UNDERSTANDING FAMILY LAW (3rd Edition)
Gregory, Swisher and Wolff, LexisNexis

PARTICIPATION, WRITING ASSIGNMENTS AND GRADING:

On completion of the course, the student will receive a numeric grade. Students will receive a "participation" grade, which will comprise 20% of the course grade; an "activities" grade, which will comprise not more than 30% of the course grade; and, a "final examination" grade, which will comprise not less than 50% of the course grade.

Participation: Students are expected to be prepared for each class meeting, to timely attend classes and other course activities (if any), to engage in appropriate class dialogue and discussion, and to prepare and timely present assigned discussion topics. Reading assignments must be completed prior to each class meeting. Students should be prepared to engage in meaningful discussion of legal concepts introduced in the reading assignments, class lectures and class discussions. From time to time, individual students will be assigned brief discussion topics for presentation at a class meeting. Students must timely perform necessary research on the discussion topic and be prepared to present the topic during class and to engage in discussion concerning the assigned topic. Tardiness, absences and lack of preparedness will adversely affect the student's participation grade.

Activities: From time to time during the semester, short writing assignments and/or quizzes may be assigned/administered. Each assignment/quiz will be individually scored, and the cumulative total of all scores will comprise the student's "activities" grade. Short writing assignments may consist of the preparation of Judicial Council forms, motions, agreements, briefs, and/or other writings relevant to the practice of family law. In writing assignments, students are expected to demonstrate an understanding of legal concepts introduced in the reading materials, class discussions and class lectures. Specific instructions and additional scoring/grading information will be provided when the writing assignments/quizzes are assigned/administered.

Examinations: At the conclusion of the semester, a comprehensive final examination will be administered during the final exams period. The final examination will consist of one or more essay questions. For purposes of the final examination, students will be expected to demonstrate an understanding of family law issues and legal principles by identifying issues, stating clearly and concisely relevant law, and applying relevant law to the facts presented through logical discussion and analysis of issues.

ATTENDANCE:

Students are subject to attendance and participation policies and procedures specified in the *Student Handbook*. Attendance is mandatory. Absence from three (3) class meetings will expose the student to academic discipline, and without further notice, may result in removal from the course. Students removed from the course for excessive absence will receive a course grade of “F” or “W” as determined by applicable academic policies and procedures. Excessive tardiness or unpreparedness will be deemed an absence. In addition to the foregoing, tardiness and absences will adversely affect the student’s participation grade.

Throughout the semester, assignments, notices, announcements and other communications will regularly be made via e-mail and/or through the online web course. As part of the attendance requirement, students are expected to regularly visit the online web course and to maintain and keep Professor Fouste informed of an active, current e-mail address.

APPOINTMENTS:

To schedule appointments and for all other communications, students are encouraged to contact Professor Fouste at ned@fouste.com. To schedule appointments or for other time-sensitive, urgent matters, students may contact Professor Fouste at 714-549-3889. Professor Fouste’s voice mail and e-mail are confidential and accessible only by Professor Fouste.

READING ASSIGNMENTS:

Except as otherwise noted, (1) all references are to the required casebook and (2) exclude “Problems” from readings. Topic dates noted may “shift” to accommodate discussions and other relevant course activities, but topics will be presented and discussed in the sequence set forth below.

WEEK	TOPIC	READING
1	INTRODUCTION Family?	196 - 203 through note 4
	MARITAL RELATIONSHIPS Marriage? Jurisdiction/Conflict of Laws	1 - 9 102 - 105
	<u>Before Marriage</u> Capacity	51 - 52
	Age	88 - 91
	Existing Marriage	74 - 78
	Same Sex	53 - 54
	Incest	81 - 86
	Mental Capacity	92 - 95
	Fraud & Duress	96 - 98
		<i>Askew</i> (1994) 22 Cal. App. 4th 942
		<i>Baltins</i> (1989) 212 Cal. App. 3d 66

WEEK	TOPIC	READING
2	Promises & Premarital Agreements Promises/Premarital Gifts Prenuptial Agreements Introduction Promoting Divorce Disclosure Unconscionability Miscellaneous Property Divorce Planning Spousal Support UPAA	1023 - 1026 1019 - 1020 1020 <i>Rosendale</i> (2004) 119 Cal. App. 4th 1202 <i>Bonds</i> (2000) 24 Cal. 4th 1 <i>Pendleton</i> (2000) 24 Cal. 4th 39 <i>Family Code</i> §1600 <i>et seq</i>
3	<u>During</u> Marriage Marital Roles Property Rights Support Rights Children	 115-116 127-130 220-224; 342-347; 388-396; 398-404
4	<u>After</u> Marriage [Divorce/Dissolution of Marriage] Types of Proceedings Jurisdiction and Venue Grounds for Divorce	109-111 471-477 502-504; 510-513; 515-519
5	Property Rights Community/Separate Property	<i>Hardin</i> 38 Cal.App.4th 448 576-581; 586-588; 621-628; 600-601
6	Support Rights Jurisdiction Spousal Support	497-498 660-674; 677-685
7	Child Support	804-806; 808-811; 813-814; 816-821; 822-825; 826-829; 830-835; 837-839; 839(1); 841-843; 844-847; 848-853; 856-861
8	Children	867-870; 908-911; 873;874; 875-878; <i>Family Code</i> §3040(a)(1) 890-893 <i>Carney</i> (1979) 24 Cal.3d 725 899-907
9	Children	930-932; 964-970; 975-980; 981(4)-983(5)
10	Contracts Between Spouses Ethical Issues for Attorneys	1041-1045 <i>Fossum</i> 192 Cal.App.4th 336 532-535; 537-540
11	NON-MARITAL RELATIONSHIPS Introduction Children Issues	173-178; 178(2); 180-184; 185-188; 189-192 291-294; 230-238; 242-252
12	DOMESTIC VIOLENCE	424-425; 426-428; 429-435; 446-449