

**WESTERN STATE COLLEGE OF LAW AT WESTCLIFF UNIVERSITY  
SYLLABUS, POLICIES, AND ASSIGNMENTS**

**2025 FALL SEMESTER ESTATES**

**PROFESSOR M. PATTERSON**

**CLASS MATERIALS:**

**REQUIRED TEXT:**

Peter T. Wendel and Robert G. Popovich, CALIFORNIA WILLS AND TRUSTS, Cases, Statutes, Problems, and Materials (2017, Carolina Academic Press) ISBN 978-1-61163-674-1 (Hardbound) ISBN 978-1-5310-2583-0 (Paperback) eISBN 978-1-5310-0840-6

**RECOMMENDED:** Susan F. French, A California Companion for the Course in Wills, Trusts, and Estates: Selected Cases and Statutes Including All Statutes Required for the California Bar Exam (2023-2024 Wolters Kluwer) ISBN 9798889062066 (Paperback)

**RECOMMENDED:** Roger W. Andersen and Susan N. Gary, Understanding Trusts and Estates Seventh Edition (2023, Carolina Academic Press) ISBN 978-1-5310-2560-1 (Paperback)

REQUIRED AND RECOMMENDED COURSE TEXTS I have selected the required texts to match Professor C. Sheppard and because Wendel and Popovich text and the recommended French text because those texts focus on California statutory law and California case law regarding intestate succession, wills, and trusts because almost all graduates of the College of Law sit for the California Bar Exam.

Information posted to The State Bar of California website regarding the CA Bar Exam reads: “Applicants taking the California Bar Exam may be required to answer questions involving issues from all of the subjects listed below: ...

- Trusts
- Wills and Succession

**Wills and Succession:**

Applicants should be familiar with the following provisions of the California Probate Code and understand California law in the specific areas noted:

Division 2. General Provisions Part 1. Effect of Death of a Married Person on Community and Quasi-Community Property Sections 100 – 103

Part 3. Contractual Arrangements Relating to Rights at Death, Sections 140-147  
Part 5. Simultaneous Death, Sections 220, 222-224

Part 6. Distribution Among Heirs or Beneficiaries, Section 240

### **Division 6 Wills and Intestate Succession**

Part 1. Wills Chapter 1. General Provisions, Sections 6100, 6101, 6104, 6105  
Chapter 2. Execution of Wills, Sections 6110-6113  
Chapter 3. Revocation and Revival, Sections 6120, 6121, 6123

Part 2. Intestate Succession, Sections 6400-6402

Division 11. Construction of Wills, Trusts and Other Instruments

Part 1. Rules of Interpretation of Instruments, Sections 21105, 21109, 21110

Part 6. Family Protection: Omitted Spouses and Children [for decedents dying on or after January 1, 1998]

Chapter 2. Omitted Spouses, Sections 21610-21612

Chapter 3. Omitted Children, Sections 21620-21623”

### **COURSE COVERAGE AND OPPORTUNITIES:**

The course of Estates is a study of principles of law regarding intestate succession, wills, and trusts. The course material will not be limited to the provisions of the California Probate Code with which a person who sits for the California Bar Exam is expected to be familiar. Furthermore, portions of course material include comparisons between portions of the California Probate Code with portions of the Uniform Probate Code that differ from California Probate Code provisions. In the basic Property course, you learned that titles to and other interests in property may be transferred either during a transferor’s lifetime (an inter vivos transfer), or as of

the time of the death of the transferor (a testamentary transfer). You will encounter circumstances in this course that involve both inter vivos and testamentary transfers of titles to, or other interests in, property. An inter vivos transfer might result in the transferred property right not constituting a part of a decedent's testamentary estate. A testamentary transfer may be in the form of a devise or legacy under a will, or by operation of law under the law of intestate succession. Principles of law regarding inter vivos transfers are relevant when a representative of a decedent's testamentary estate, or a trustee of a trust, purport to transfer title or some other interest in property to a purported transferee.

The topics upon which we will focus most of our attention during this course are:

#### Introduction to “the Wills and Trust Landscape”

- a. Probate vs Nonprobate Property
- b. An overview of estate planning
- c. Professional Responsibility—Ethical Issues

#### 2. Intestate Succession

- a. An Estate Plan by Default
- b. The Structure of Intestate Succession
  - (1) Surviving Spouse
  - (2) Descendants
    - (a) Issue
    - (b) Natural and Adopted Children
    - (c) Posthumously Born or Posthumously Conceived Children
  - (3) Ancestors, Collaterals, Others
- c. Doctrines that may affect an heir's share
  - (1) The Advancement Doctrine
  - (2) The Slayer Doctrine
  - (3) The Disclaimer Doctrine

#### 3. Wills: Capacity and Contests

- a. Capacity to Make a Will
- b. Undue Influence
- c. Duress
- d. Fraud
- e. Tortious Intentional Interference with an Expectancy

#### 4. Wills Act Formalities

- a. Attested (Witnessed) Wills

b. Holographic Wills 2024 Fall Semester Estates Sec.

5. Will Revocation

- a. Express Revocation
- b. Implied Revocation
- c. Revival of a previously revoked will
- d. Dependent Relative Revocation (DRR)

6. Components of a Will

- a. The Integration Doctrine
- b. Republication of a Will by Codicil
- c. The Doctrine of Incorporation by Reference
- d. Acts of Independent Significance
- e. Contracts Concerning Wills

7. Construing Time of Death Gifts

- a. Mistaken or Ambiguous Language in Wills: Admissibility of Extrinsic Evidence
- b. Death of Beneficiary before Death of Testator: Lapse/Anti-Lapse.
- c. Changes in Property after Execution of Will
  - (1) Ademption
  - (2) Exoneration
  - (3) Abatement

8 Family Protection

- a. Migrating Couples
- b. Quasi-Community Property
- c. Pretermitted (Omitted) Spouses and Pretermitted (Omitted) Children

9. Non-Probate Transfers

- a. Life Insurance
- b. Joint Tenancy
- c. Legal Life Estate and Remainders
- d. Inter Vivos Trusts

10. Creation of Express Trusts

- a. Private Trusts Compared With Charitable Trusts
- b. Requirements for Creation of an Express Trust:
  - (1) Intent
  - (2) Trust Property

- (3) Formalities
  - (a) Delivery
  - (b) Statute of Frauds
  - (c) Statute of Wills
- (4) Beneficiary/Beneficiaries
- (5) Lawful Purpose

- 11. Testamentary Additions to Inter-Vivos Trusts
  - a. Incorporation by Reference Doctrine
  - b. Acts of Independent Significance
  - c. Uniform Testamentary Additions to Trusts Act
- 12. Revocation of Express Trusts
  - a. Default Rules to Determine Whether the Trust is or is not Revocable
  - b. Mechanics of Revocation
- 13. Nature of a Trust Beneficiary's Interest
  - a. Equitable Interest
  - b. Distribution to Beneficiary: Mandatory or Discretionary
  - c. Spendthrift Trusts and Trusts with Spendthrift Characteristics
- 14. Modification of an Express Trust
  - a. By the Settlor
  - b. The Deviation Doctrine
  - c. The Cy Pres Doctrine
- 15. Termination of an Express Trust
  - a. By all parties to the trust
  - b. By all beneficiaries of the trust
- 16. Trustee's Powers and Trustee's Duties
  - a. From Limited Powers to Fiduciary Administration
  - b. The Duty of Loyalty
  - c. The Duty of Prudence
  - d. The Duty of Impartiality
  - e. The Duty to Inform and Account
- 17. Alienation of the Beneficial Interest
- 18. Removal of a Trustee of an Express Trust

19. Charitable Trusts: Charitable Purposes, Cy Pres, and Supervision
  - a. Charitable Purposes
  - b. Cy Pres and Deviation
  - c. Enforcement of Charitable Trusts
20. Trusts: Powers of Appointment
  - a. Purposes, Terminology, and Types of Powers
  - b. Exercise of a Power of Appointment
  - c. Failure to Exercise a Power of Appointment
21. Trusts: Construction and Future Interests
  - a. Future Interests
  - b. Construction of Trust Instruments
22. The Rule Against Perpetuities and Trust Duration
  - a. The Common Law Rule
  - b. Perpetuities Reform
  - c. Application of the Rule to Class Gifts and Powers of Appointment
  - d. Other Durational Limits
23. Summary of Trusts Created by Operation of Law
  - a. Constructive Trusts (an equitable remedy)
  - b. Resulting Trusts (based on an implied intent)

### **SKILLS AND VALUES**

In this course, you will be provided with opportunities to:

- Enhance your analytical, problem solving, statutory deconstruction, and related skills that you will use as an attorney either in non-dispute resolution settings, or in dispute resolution settings, or both.
- Develop a working knowledge of various principles of law regarding intestate succession, wills, and trusts; and enhance your understanding of various principles of law regarding property, contracts, torts, civil procedure, and others.
- Enhance your oral communication skills and legal research and exam writing skills.
- Develop and enhance client counseling skills.

### **WESTERN STATE COLLEGE OF LAW – PROGRAMMATIC LEARNING OUTCOMES**

Western State College of Law's curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Associations, Evidence, Civil Procedure, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternative dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities and differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

**(5) Communication**

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author's or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

**(6) Advocacy of Legal Argument** Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to resolution of the application of a rule to the legal controversy.

**(7) Client Sensitivity and Cultural Competency**

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' backgrounds and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

**(8) Legal Ethics**

Students will demonstrate the ability to identify ethical issues in law prn law practice contexts and make appropriate decisions to resolve such issues.

## **COURSE METHODOLOGY**

I utilize a combination of classroom methods to assist you in your effort to achieve the objectives of this course, including use of the Socratic method of interaction to enable you to properly gauge the current level of your working knowledge of course subject matter, use of the case method of exploring and examining legal principles and methods of application of those principles (including, but not limited to, how to deconstruct case law, statutory law, and other sources of law), exercises regarding drafting of instruments, exercises regarding examination of documents, and problem solving exercises. It will be incumbent upon you to



engage in an appropriate study and review of each course assignment before we engage in classroom discussions about the course material that is part of that assignment. The primary focus of our classroom discussions will be the manner in which you should use course and related material to raise and resolve issues that can arise in either a dispute resolution setting or a transactional setting, or other non-dispute resolution setting. To engage in an appropriate study of course material, at a minimum, you must complete a critical reading of that material; and you must brief each principal case included in the course text, each case cited in a text note, and any case which I might assign as additional reading. You should also read additional reference material (e.g., relevant portions of the recommended texts and/or another hornbook or a treatise). Your study habits must also include you engaging in activities that will hone your skills of legal analysis and exam taking and writing. I will also expect you to have prepared appropriate work product regarding text problems that are part of the assigned reading. Adhere to the IRAC method of legal analysis to the extent necessary during classroom discussions, when engaged in problem solving exercises, and during the course final exam.

### **EXPECTATION OF YOUR AMOUNT OF OUTSIDE PREPARATION TIME**

I expect you to devote a MINIMUM of four and one-half hours a week to prepare for each one and one-half hour class session (i.e., a MINIMUM of nine hours a week).

### **EXAMINATION AND GRADING**

There will not be a midterm exam in this course. Each class session will provide to you ample opportunity for you to engage in self-assessment of your level of understanding of course material which will enable you to plan weekly study regiments accordingly and to formulate questions that you will need to present to me either during a class session, or during an office consultation (in-person or via Zoom), or by email, or by a combination thereof. There will be one graded exam; to wit: the course final exam.

**FINAL EXAM** A three-hour, final exam will be administered as part of this course. I will provide information to you about the format of the final exam prior to the last day of instruction. I will use the score that you earn on the final exam to determine your final grade in this class.

**GRADING** The Exam will be graded like the Bar Exam. It will test your ability to issue spot, apply the definitions and concepts studied in this course, and to present the arguments that the parties in the essay will be given.

## **OFFICE HOURS, OFFICE TELEPHONE, E-MAIL AND FAX**

I am a full time practicing attorney. The best way to reach me are email and cell.

I will make myself available on Saturdays

My Cell Phone is (818)746-5641 please leave a message with your name, feel free to text questions to this number. Tell me your name or that you are a student.

My email is [mjplawmom@gmail.com](mailto:mjplawmom@gmail.com)

My office number is 818-746-5641, they can take a message or schedule a time for a call back.

## **READING ASSIGNMENTS**

California Wills and Trusts Cases, Statutes and Materials (Second Edition)

August 12, 2025, Chapter 1 (3-24) be ready to answer, "What is a Will?" "What is a Trust". "What is Probate"

August 19, 2025, Chapter 2 (25-87)

August 26, 2025, Chapter 3 (59-96)

Sept 2, 2025, Chapters 4 and 5 (97-182)

September 9, 2025, Chapter 6 (183-246)

September 16, 2025, Chapter 7 and 8 (247-306)

September 23, 2025, Chapters 9 and 10 (307-386)

September 30, 2025, Chapters 11 (387-424)

October 7, 2025 Chapter 12(425-496)

October 14, 2025, Chapter13 (497-564)

October 21 Class break

October 28, 2025 Chapter 14 (565-648)

November 4, 2025, Chapter 15 (649-692)

November 11, 2025 Veteran's Day NO CLASS

November 18, 2025, Chapter 16 (693-737)

November 25, 2025 Review Day Bring Questions