



**ESTATES AND TRUSTS**  
**Fall 2017; Class 497B**  
**Professor Anson T. Cain**

**SYLLABUS**

**Professor's Contact Information:**

Email: [atcain@wsulaw.edu](mailto:atcain@wsulaw.edu)  
Office: Before or after class in the classroom; or  
At my law firm office (by appointment only)  
Office Hours: As Posted, or By Scheduled Conference or Teleconference

**Course Info:** Wednesdays, Room 217, 6:40 p.m. to 9:50 p.m. (or as otherwise scheduled)  
**NOTE – Class cancelled on August 23<sup>rd</sup> (to be rescheduled)**

**Course Objectives:**

Generally. This course covers problems arising in the creation of wills and trusts as well as the administration of estates for probate and non-probate assets. Topics will include will substitutes (joint accounts, life insurance, retirement/pension plans), intestate succession (dying without a will), testate estates (dying with will), and trusts (revocable trusts only). You will learn the rules contained in the California Probate Code (CPC) related to intestate succession (descent and distribution), as well as wills and trusts.

Bar Preparation Notification: **This is not a bar preparation course but will cover many topics that may be covered on the bar exam.** Use of bar prep or equivalent bar materials are not a part of the required reading for this course and should not be used in lieu of the assigned textbook and/or statutory readings as I assign.

**Teaching Methodology:** Lectures will be presented to introduce new substantive topics and concepts. The primary teaching methodology will be with cases, problem-solving and collaborative group interaction. **BRIEFING CASES** and **ANSWERING THE PROBLEMS** in the textbook (give your best attempt) before class is imperative to the learning process. You are required to prepare written answers to any assigned problem (as I direct) in order to be able to discuss the answers in class or in groups.

**Textbook & Required Materials**

***Required Text:***

***Estates & Trusts***  
Sterk, Leslie and Dobris, (4th ed. 2011).

***Recommended:***

***Desktop Edition California Probate Code***  
(West Academic, 2017)

**Note:** For class, you must either have access to the California Probate Code online or have a copy of the California Probate Code accessible for class. **ALL ASSIGNED PROBLEMS SHOULD BE USED PRIMARILY APPLYING THE CALIFORNIA PROBATE CODE (CPC), and the Uniform Probate Code (UPC) should ONLY be referred to as directed by me.**

## **Use of TWEN:**

**Supplemental Materials.** Supplemental materials and additional information related to the course **WILL BE POSTED** on TWEN via Westlaw. You must register for this course on TWEN to have access to supplemental materials for the course. **It is your responsibility to check TWEN regularly for materials posted.**

**Revised Reading Assignments.** Please check the TWEN page for this course for changes to the readings and writing assignments for the class. I will endeavor to cover all the assigned readings but I may slow down or speed up during the course of the semester depending upon the students' level of understanding of the materials. All revisions to the reading assignments, writing assignments, or other materials for the course will be posted to TWEN and not necessarily announced during class.

## **Attendance, Absences and Preparedness:**

**Attendance.** Attendance will be taken daily in class by circulating an attendance sheet for you to sign. It is critical you ensure that you sign the attendance sheet every day you are present and on time for class. **You must NOT sign the attendance sheet for anyone else.** You are responsible for keeping track of your own absences. In the rare instance that you have a question about your records, you may consult with me to review the attendance records based upon the signatures on the attendance sheets.

**Absences.** If you collect more than **two (2) absences**, as indicated by the attendance sheets, you will be disenrolled from the course, in accordance with the policies of the Western State University College of Law set forth in the Student Handbook, and will receive a grade of "W" or "F" on your transcript.

**Class Participation and Preparedness.** You are expected to be prepared for class; to participate in class discussions; and complete the required reading and suggested problems from the textbook. Signing the attendance sheet certifies that you have read the assigned material thoroughly enough to discuss it in class or use the knowledge in a written exercise. Preparation of a written brief for each of the assigned cases and written answers to the textbook problems will be considered prima facie evidence that you are prepared. If you are unprepared, place a signed and dated note on the lectern BEFORE class and do NOT record your attendance. If you are found unprepared, you shall be given one absence.

**Pursuant to ABA Standard 310, you are required to devote at minimum two (2) hours of out-of-class time preparing for each hour of classroom instruction. The assigned readings each week have been calibrated for you to achieve this minimum requirement.**

## **Examinations and Grading:**

**Course Final Exam.** There will be one on-campus, graded examination for this course. You will not be allowed to use any books, notes or other reference materials during the final examination.

**Subject Matter and Format.** You will only be tested on topics covered in class during the course, including from the assigned reading or problems from the textbook and TWEN posted materials and lectures. The final exam may consist of multiple choice questions, short answer

essays, or one or more comprehensive essays on a combination of all topics covered in class. I will provide more information about the final exam in the future.

Grading. Except for an adjustment for your class participation or lack thereof, the final exam will consist of one hundred percent (100%) of your grade in this course. You are expected to be prepared for class by completing the required reading, briefing assigned cases, and answering assigned problems from the textbook or by me. Depending on your participation in class, I reserve the right, in my sole and absolute discretion, to allocate an additional three percent (3%) to your final exam grade or decrease your final exam grade by three percent (3%). Each student begins the semester at zero percent (0%) for classroom participation, but this will be adjusted throughout the semester for meaningful participation, lack of preparation, or irrelevant comments. If you have any questions about your participation, you must make an inquiry to me before the last three (3) weeks of class.

### **Classroom Decorum:**

Please be seated and ready to begin class at the designated time. **Punctuality is expected.** **If you arrive after class has begun, you may be on-call for the entire class for that day.** Out of courtesy to your classmates, please keep distractions to a minimum by not carrying on social conversations with your neighbors while class is in session (even by electronic communication), and by turning off all cell phones and electronic devices other than your computer.

### **Class Recordings:**

No videotaping or audiotaping of this class is allowed, except in extraordinary circumstances and ONLY with my express written permission.

### **Classroom Computer Usage:**

You may use your laptop during class for the purpose of taking notes or other purposes that are directly related to and supportive of your participation in class. However, the use of computers is a privilege and not a right and it may be withdrawn if you do not use it responsibly. Use of a computer in class for activities or purposes unrelated to the course causes a significant distraction for other students and severely disrupts the ability of those students to participate fully in class. Therefore, any improper usage of a computer during class, including composing, reading, or sending e-mails; instant messaging; searching or browsing the Internet; playing games; or viewing movies; is prohibited.

### **Service Dog:**

Please be aware that I have a trained service dog named Magic. Magic is trained as a Diabetic Alert Dog. Depending on the day, he may or may not come to class. While Magic is kind, please do not attempt to pet or feed Magic without asking my permission first (he has to watch his figure!). If you have a fear of dogs or are allergic (though he is hypoallergenic), please make arrangements to speak with me so that we can find the best possible solution.

## **OFFICIAL SCHOOL POLICIES**

### **DISABILITY SERVICES STATEMENT:**

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite 119. Dean Espinoza's phone number and email address are: (714) 459-1117; [despinoza@wsulaw.edu](mailto:despinoza@wsulaw.edu). When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Associate Dean of Students Charles Sheppard at [csheppard@wsulaw.edu](mailto:csheppard@wsulaw.edu) or (714) 459-1152. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

### **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 Association, Evidence, Civil Procedures, 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 alternate 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 or 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 be able 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 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 support a particular application or distinction of a precedent case to a legal controversy or a particular 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' background 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 practice contexts and make appropriate decisions to resolve such issues.

## **ARGOSY UNIVERSITY INSTITUTIONAL LEARNING OUTCOMES:**

### **1. Analytical Reasoning**

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems

### **2. Effective Communication**

Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation

### **3. Information Competency**

Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action

### **4. Interpersonal Effectiveness**

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals

### **5. Personal and Professional Integrity and Ethical Behavior**

Demonstrate a multi-dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.

### **6. Professional Competence**

Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession.

## **ABA Standard 310. DETERMINATION OF CREDIT HOURS FOR COURSEWORK**

(a) A law school shall adopt, publish, and adhere to written policies and procedures for determining the credit hours that it awards for coursework.

(b) A “credit hour” is an amount of work that reasonably approximates:

(1) not less than one (1) hour of classroom or direct faculty instruction and two (2) hours of out-of-class student work per week for fifteen (15) weeks, or the equivalent amount of work over a different amount of time; or

(2) at least an equivalent amount of work as required in subparagraph (1) of this definition for other academic activities as established by the institution, including simulation, field placement, clinical, co-curricular, and other academic work leading to the award of credit hours.

### **Interpretation 310-1**

For purposes of this Standard, fifty (50) minutes suffices for one (1) hour of classroom or direct faculty instruction. An “hour” for out-of-class student work is sixty (60) minutes. The fifteen-week period may include one week for a final examination.

### **Interpretation 310-2**

A school may award credit hours for coursework that extends over any period of time, if the coursework entails no less than the minimum total amounts of classroom or direct faculty instruction and of out-of-class student work specified in Standard 310(b).

**READING ASSIGNMENTS:**

(\*Subject to Change at the Professor's Discretion)

Read and Refer to Corresponding **California Probate Code (CPC) Charts**  
Posted on TWEN to complement the Readings.

<b>Wednesday</b>	<b>Case Book Readings</b>	<b>Topics</b>
Class 1 August 30, 2017	<u>Chapter 1</u> Pages 1-25; 27-45; 45-64  California Probate Code §§ 250-259, 21102 California Civil Code § 710	Overview and Lawyer's Role Statutory Deconstruction Slayer Statute Probate & Non-Probate
Class 2 September 6, 2017	<u>Chapter 12</u> Pages 984-1002  <u>Chapter 2</u> Pages 65-131  California Probate Code §§ 240, 246, 247, 6400-6409, 6450-6454	Probate & Non-Probate Intestate Succession
Class 3 September 13, 2017	<u>Chapter 2</u> (continued) Pages 135-141; 148-161; 164-166 Intestate Chart & Problems (pp. 90-91)  California Probate Code §§ 6450-6454, 6403, 275-288, 6409  <u>Chapter 3</u> pp. 167-175 191-201 pp. 206-226 <b>(Skip pp. 176-190)</b>  California Probate Code §§ 6412, 21610 -21612, 6101, 6401, 21620 - 21623	Intestate Succession  Protecting the Family
Reading Assignments for Other Classes Will be Posted on TWEN		