NORTHEASTERN UNIVERSITY SCHOOL OF LAW
TRUSTS & ESTATES

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Casebook: Dukeminier, Johanson, et. al., *Wills, Trusts and Estates,* Aspen (8th ed.)

Trusts and Estates is a fun subject with lots of analytical twists and many interesting cases. Our casebook is Wills, Trusts and Estates, (Aspen (8th ed.). It is quite good and an easy read. There are a number of good hornbooks in the field, if you have the desire to further your knowledge beyond the textbook.

The course, following the text, will give weight to each of the four approaches to the material: 1) legal doctrine; 2) estate planning and practical problem prevention; 3) tax planning; and 4) policy.

If you intend to practice in this area, it is recommended that you take courses in federal income taxation, estate planning and elder law.

Northeastern University School of Law has an attendance policy. Students not regularly attending classes will be reported to Assistant Dean for Student Affairs.
Please note that students are allowed to miss class for scheduled co-op interviews, family emergencies and in accordance with the University's guidelines on the H1N1 virus. If you are not feeling well please stay home and recuperate, we can make arrangements for you to make up the missed work. Please let me know in advance if you will be missing class.

Classroom attendance and participation are an important part of the learning process. I will be calling on "one row" per class to be thoroughly prepared for the material assigned for that class. I will focus my attention on that row for classroom participation. However, that does not mean that those of you not "on-call" do not have to read the assigned material. I reserve the right to call on other members of the class who are not on-call.

I will be assigning <u>optional written assignments</u> during the term. The assignments will be read with care, but not evaluated. The writing assignments are intended to be realistic and practical learning tools.

The principal determinant of your evaluation will be your performance on your final exam. However, classroom attendance and participation will weigh heavily in your evaluation.

It will be determined at a later date, but early enough before final examinations, whether or not you will have an in-class examination or a take-home final examination.

This class can also fulfill your upper-level writing requirement. However, no more than 5 students will be allowed to submit a paper in lieu of taking the final examination. There will be a lottery system to determine which students will be able to fulfill their writing requirement, if more than 5 students choose to write a paper.

<u>Class #1 – Sources of authority for transfer at death</u>
Who controls how our property passes when we die?
Overview of the course and property law review
Chapter 1: pp. 1-38

<u>Class # 2 – Sources of authority for transfer at death (continued)</u>
Who controls how our property passes when we die?
The Estate Settlement Process
Chapter 1: pp. 38-49

<u>Class #3 – Intestacy and non-probate transfers</u>
A majority of people die without a will. What happens to their property?
Intestacy
Chapter 2: pp. 71-97

<u>Class #4 – Intestacy and non-probate transfers (continued)</u>
A majority of people die without a will. What happens to their property?
Intestacy and Common non-probate transfers
Chapter 2: pp. 97-117; Chapter 5: pp. 393-397; 418-435

<u>Class #5 – Capacity, Undue Influence, and Professional Responsibility</u>
When does a person lose the legal capacity to dispose of property?
Mental Capacity, Undue Influence and Coercion
Chapter 3: pp. 159-215

<u>Class #6 – Capacity, Undue Influence, and Professional Responsibility (continued)</u>
When does a person lose the legal capacity to dispose of property?
Ethics, Prudence and Good Judgment for Estate Planners
Chapter 1: pp. 58-70; Chapter 3: pp. 215-221

<u>Class #7– Basic Will Formalities</u>
What formalities are required for a will to be valid?
Formalities and Forms
Chapter 4: pp. 223-267
pp. 223-267

Catching up on Professional Responsibility (pp. 58-70)

<u>Class #8– Basic Will Formalities (continued)</u>
What formalities are required for a will to be valid?
Holographic Wills, Revocation
Chapter 4: pp. 268--317, 323-329

<u>Class #9 – Wills, Problems of Interpretation</u>
What if the language of a will doesn't carry out the testator's intent?
Mistaken and Ambiguous Language in Wills
Chapter 5: pp. 335-357

<u>Class #10 – Wills, Problems of Interpretation (continued)</u>
What if the language of a will doesn't carry out the testator's intent?
Death of Beneficiary Before Death of Testator; Changes in Property After Execution of Will
Chapter 5: pp. 358-392

<u>Class #11 –</u> Introduction to Revocable Trusts as Will Substitutes; Rights of Spouses and Children; Rights of Omitted Issue

Introduction to Revocable Trusts as Will Substitutes
Chapter 5: pp. 397-418

<u>Class #12 –</u> Introduction to Revocable Trusts as Will Substitutes; Rights of Spouses and Children; Rights of Omitted Issue

Rights of Surviving Spouse & Right of Omitted Issue
Chapter 7: pp. 469-471; 476-480; 487-539

<u>Class # 13 – Trusts: Introduction & Creation</u>

Trust Basics
Chapter 8: pp. 541-572; 576-588 (skip <u>Speelman v. Pascal</u>)

<u>Class # 14 – Trusts (continued)</u>

Trust Basics (continued) and Fiduciary Duties of Trustees;
Discretionary and Spendthrift Trusts
Chapter 9: 597-627;
Chapter 10: pp. 667-677; 721-739

<u>Class # 15– Trusts (continued)</u>

Modification and Termination of Trusts; Introduction to Powers of Appointment
Chapter 9: pp. 641-666; Chapter 12: 803-812

<u>Class # 16– Trusts (continued)</u>

Release and Exercise of Powers of Appointment
Chapter 12: pp. 812-836

<u>Class #17 – Charitable Trusts and Cy Pres / Trust Administration: The Fiduciary Obligation</u>

Charitable Trusts and Cy Pres
Chapter 11: pp. 751-776

<u>Class #18 – Trust Administration: The Fiduciary Obligation</u>

Trust Administration: The Fiduciary Obligation
Chapter 10: pp. 679-721

<u>Class #19 & Class #20 – Elder Law & Medicaid Planning / Wealth Transfer Taxation: Tax Planning</u>

Read pp.: Chapter 2: 156-157; Chapter 7: 484-487; Chapter 9: 638-641; Chapter 15: 931-969

Final Examination: To Be Determined