Course Syllabus

Course Number/Title: MFC 333 – Introduction to Estate Law (3 credits)
Class Day/Time: Fall 2016
Class Location: online www.UBLearns.buffalo.edu
Format: Lecture / Web Course
Prerequisites: None
MFC Faculty: O.A. Possé, Esq.
Office Phone: 716-829-2904
Email: oaposse@aol.com
Website: www.buffalo.edu

COURSE DESCRIPTION

In the coming decades 80 million baby boomers will retire. Planning for the largest generational transfer of wealth in history will require professionals who possess specific knowledge relating to wills, estate planning, estate and trust administration, and charitable giving. In this course, students learn about wills, trusts, and laws relating to family protection.

This course focuses on a practical understanding of the laws of wills and trusts. Topics include the creation and revocation of wills, interpretation of wills, intestacy, probate administration, proper use of trusts, gifts, charitable transfers, intra family transfers, and planning for incapacity. Additionally, students will learn the appropriate procedures relevant to drafting and interpreting wills. Basic inheritance issues are explored, as well as intestate succession, rights of the surviving spouse (including elective share), termination of trusts, powers of appointment, future interests and the Rule Against Perpetuities, and proper fiduciary administration of trusts and estates.

Course Learning Objectives - After successfully completing the lessons and assignments for this online course, this is what students will be able to do:

- Describe the rules of intestacy, and apply those rules to a fact pattern.
- Draft a sample (simple) will for a hypothetical client’s situation.
- Recognize various provisions in wills and explain their significance.
- Decide which beneficiaries are entitled to what assets, based on the provision of a sample will.
- Describe and apply various rules regarding will execution.
- Understand probate administration proceedings & describe the steps of the probate process.
- Explain the forms and functions of various types of trusts both revocable and irrevocable.
- Explain the benefits of charitable trusts.
- Describe the features of charitable trusts, and when their use is appropriate.
- Describe and apply the basic rules that govern trust administration, including the rights and responsibilities of the trustee.

**Learning Outcomes:**

After studying the material presented in this course of study, the student will be able to do the following:

- Read and analyze diverse primary legal sources carefully and accurately, with attention to the author’s perspective, position, and to the source’s general context.
- Be familiar with legal research methods and legal terminology.
- Read, evaluate, and summarize court opinions (i.e. write case briefs), and be able to analyze the authors’ arguments for relevant evidence, context, and strength.
- Draft a legal writing project (memo or term paper) and make clearly written and logically organized arguments that are well supported by primary sources.
- Show a good basic knowledge of the scope and content of estate law.
- Demonstrate the ability to think and write (term paper & briefing assignments) critically, logically, ethically, coherently and concisely in theoretical and practical contexts.
- Develop the ability to think about and solve problems that integrate different issues in estate law.
Achievement: The above learning outcomes will be achieved through reading prescribed cases, laws, web articles and web instruction material and by submitting written assignments, a researched term paper and examinations.

**Learning Objectives**

**Foundational Objective (Case Analysis & Briefing)**

You must achieve this objective in order to benefit from the course as a whole and in order to achieve the performance objectives listed below. During this course, you will be able to:

1. After reading a judicial opinion (AKA a case or case law), identify, understand and explain:

   a. The parties to the case and who is suing whom? If it is an appellate case (most of the assigned cases are), who appealed and on what issues?).

   b. The procedural history of the case. (How did the case get to the appellate court? What happened in the court(s) below?).

   c. The relevant facts of the case (what caused the dispute?).

   d. The legal issues (what questions are court asked to decide?) and the relief sought (damages, specific performance, rescission of the contract, an injunction?).

   e. The plaintiff and defense arguments.

   f. The outcome/case holding and the reasoning of the court.

**Performance Objectives**

These objectives require you to apply the skills described above. Upon completion of this course, you should be able to:

1. Given a complex fact pattern involving estate law issues, identify the legal issues raised by the facts.

2. As to each legal issue, apply legal principles and the correct controlling law(s) to the facts to develop creative, well-reasoned, legally and factually supportable arguments in favor of (and against) the legal positions of the parties.

3. Assess the strengths and weaknesses of the arguments.
Continuing Objectives

These objectives go beyond the skills described above and relate to higher level, critical thinking. You should be able to:

1. Understand how the law develops, changes, and is applied.
2. Evaluate legal doctrines critically and from multiple practical, theoretical, philosophical, and social perspectives.

Competencies / Instructional Method / and Assessment of Student Learning:

Students are expected to login to UBLearns on a regular basis to review the course syllabus, check course announcements & assignments, etc. Students are expected to complete and submit assignments as directed to verify that they have read and understood the course material.

The course includes a set of quizzes and briefing assignments, plus a midterm and a final exam to assess chapter material. Students will also submit a final written project (term paper or law memo) to complete course requirements. Students are expected to login to the course at least once per week to check course announcements, etc.

Final grades are based on the following: Quizzes, Mid Term Exam & Final Exam = 50%, Term Paper or Law Memo = 25%, Case Briefing Assignments = 25%.

Textbook /Equipment /Required Technologies: The casebook for this course is Introduction to Estate Law: A Casebook Study Approach, by O.A. Possé, Esq.

Course Requirements and Assignments: This course contains the following assignments:

Intro Quizzes & Self-Paced Quizzes

Intro Quiz: The intro quiz has a specific & early due date which is posted in the Announcement section each semester. The intro quiz has a simple true/false and multiple choice format. It covers the material in the document called “A Casebook Approach to Learning Law” that is an early reading assignment.
Self-Paced Quizzes:

The remaining quizzes are self-paced. They may be true/false, matching, short answer or a combination of these formats. You have 2 chances to take each quiz and the highest score is reflected in my online grade book.

Intro Case Briefs & Monthly Case Briefs

**Intro Case Brief:** The intro case brief has a specific & early due date which is posted in the Announcement section each semester. Brief *In Re Estate of Morea* which is on pages 667-668 in your casebook.

**Monthly Case Briefs:** I will post a briefing assignment at the end of the first and third month of the semester (with deadlines for completion) and they (along with the other assigned case briefs) are worth 25% of your final grade. You will have roughly one week to complete each future / monthly briefing assignment.

**Term Paper:** The term paper assignment will be posted in the announcement section each semester. You will need to conduct independent web research before writing your term paper. The term paper is due by the last day of the semester, which is also posted in the Announcement section. I do not have a specific page requirement but I do value quality over tons of junk content. Your term paper will be graded as to how well it was researched and how well it was written.

**Midterm Exam:** This assessment will be made available for a 48 hour period of time at the semester mid-point over a weekend. There is no make-up midterm exam. I will proctor the exam in real-time via the UBLearns system. Students must work alone on the exam. The dates will be posted in the Announcement section.

**Final Exam:** The final exam will be made available for a 48 hour period of time at the end of the semester over a weekend. There is no make-up final exam. I will proctor the exam in real-time via the UBLearns system.
Students must work alone on the exam. The dates will be posted in the Announcement section.

Case Briefing Assignments – See the posted Assignment & Announcement Sections every semester for specific cases to brief and specific due dates, etc.

Case Briefing Quizzes – In addition to briefing certain cases, quizzes will be posted that will test your understanding of any cases assigned for briefing. Again, please see the posted Assignment & Announcement Section every semester for specific cases that are quizzed and specific due dates. The quizzes associated with the case briefs will also change every semester, depending on which cases have been assigned for you to brief.

Midterm Exam & Final Exam – The dates for these assessments will be posted each semester in the Announcement section. These assessments will be given over a specific 48 hour period, over a weekend, and I will proctor them (in real time) online via the UBLearns system. Students must work alone on all assessments (quizzes, midterm & final).

Note: There are no make-up midterm or final exams. The dates for the exams will be posted at the start of the semester and you are responsible for planning ahead. If an emergency prevents you from taking these exams you must be able to document it. An “emergency” is not a: vacation, sporting event, job obligation, lack of textbook, etc.

Units / Lessons: Course Outline

General Introduction
Will Requirements
Will Limitations
Appointing a Representative / Guardian
If No Valid Will Exists
Ten Good Reasons to Have a Will
Historical Overview
  Roman Influence on English Law
  English Development & History of the Law of Wills
    Land Inheritance
    Personal Property Inheritance
  Early Legislation
  United States History of Wills
  Wills In New York
The Probate Process
Probate v. Non Probate Property
Administration of Probate Estates
Important Legal Definitions
Summary of A General Probate Procedure
Primary or DomiciliaryJurisdiction Rule
Closing the Estate
Intestacy
Simultaneous Death
Shares of Ancestors & Collateral Kin
Overview of General Intestate Succession
Transfers to Children
Bars to Succession
Capacity & Will Contests
  Mental Capacity
  Undue Influence
  Fraud
Will Formalities & Forms
Types of Wills
Will Revocation In General
Dependent Relative Revocation
Execution of Wills / Attested Wills
Holographic Wills
Revocation of Wills
Joint & Mutual Wills
Codicils
Oral Wills
Attestation Clause
Incorporation by Reference
Satisfaction of Legacies
Pretermitted Heirs
Living Wills / Advance Health Care Directive
Totten Trusts
What Not To Include When Drafting Your Will
Property You Cannot Include In Your Will
Dependent Relative Revocation
Revival of a Will
Revocation by Operation of Law
Components of a Will
Integration of Wills
Republication by Codicil
Incorporation by Reference
Contracts Relating to Wills

Contracts to Make a Will

Contracts to Not to Revoke a Will

Trusts; Creation / Types / Characteristics

Common Purposes for Trusts

Alphabetic List of Common Trust Types

Trusts: Historical Overview

Basic Principles of Trust Law

Parties to Trusts & Elements of a Trust

Creation of a Trust

Necessity of Trust Property

Necessity of Trust Beneficiaries

Necessity of a Written Instrument

Charitable Trusts

Modification & Termination of Charitable Trusts

Interpretation of Wills & Trusts

Correcting Will Mistakes

Death of Beneficiary Before Death of Testator

**Course and Instructor Evaluation:** Millard Fillmore College will distribute an instructor and course evaluation following the last day of class and after final exams have been completed.
**Grading:** Approximate cut points are as follows:

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<th>Percent</th>
<th>Letter Grade</th>
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<tr>
<td>94 - 100</td>
<td>A</td>
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<tr>
<td>90 - 93</td>
<td>A-</td>
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**Communication:** Our primary source of communication for this course will be by email. Students taking an online course are expected to login a minimum of once per week for course announcements, assignment updates, etc.

**Faculty/Instructor:** I can be reached by email with questions or for guidance that are concerned with this course. I will respond within 48 hours.

**Students:** Your UB email is the account that I will use to send course-related materials.

**Netiquette:** This course may utilize UBLearns to facilitate online communication between course participants. Please keep in mind the following “Rules of Netiquette” when communicating online.

- The rules of the classroom are the same regardless of location. When communicating online you must respect your professor and fellow students. You are communicating with a real person, not a computer screen.
o Remember your audience. When sending email to your professor, please refrain from using “text speak”. Also, stay away from using all capital letters; it will appear as if you are shouting.

o Avoid strong language. Language can be easily misinterpreted in an online setting. Review your work before submitting it to avoid strong, offensive or sarcastic content. Be as straight forward and professional as possible.

o Read everything, twice. Read all material and instructions carefully before you begin to work on assignments, quizzes, etc. You may have missed an important detail the first time you read. If you are still having difficulties, then email your professor.

o Review all material before submitting it. On discussion boards, read previous postings to avoid duplicating someone else’s comments. Also, write and save your work first. In case of technical issues, you will have a backup copy.

Policy Regarding Absences, Attendance, Assignments, Tests and University Policy Regarding Grades of Incomplete in Courses.

- Class Attendance and Absences: Students should login at least once per week to update themselves as to new course announcements, due dates, etc.

- Late Assignments: All assignments are due at designated times and due dates. No late assignment will be accepted and you will be issued a grade of ZERO unless you have a documented illness or emergency. If there are circumstances that will prevent you from turning in an assignment when due, you must discuss the situation with your professor prior to the due date.

- Quizzes and Exams: Quizzes and exams are all taken online for this course on specifically designated dates which are posted in the announcements each semester.

- Policy on Incomplete Grades: A final grade of incomplete will only be issued if there are extenuating circumstances (i.e. severe illness) that prevent the student from completing the course. The student must have satisfactorily completed all coursework and successfully passed all
assessments up until the time that the incomplete is requested. See http://undergrad-caatalog.buffalo.edu/policies/grading/explanation.shtml

- **University Policy on Incomplete Grades**: See http://undergrad-catalog.buffalo.edu/policies/grading/explanation.shtml

A grade of incomplete ("I") indicates that additional coursework is required to fulfill the requirements of a given course. Students may only be given an “I” grade if they have a passing average in coursework that has been completed and have well-defined parameters to complete the course requirements that could result in a grade better than the default grade. An “I” grade may not be assigned to a student who did not attend the course. Prior to the end of the semester, students must initiate the request for an “I” grade and receive the instructor’s approval. Assignment of an “I” grade is at the discretion of the instructor.

The instructor must specify a default letter grade at the time the “I” grade is submitted. A default grade is the letter grade the student will receive if no additional coursework is completed and/or a grade change form is not filed by the instructor. “I” grades must be completed within 12 months. Individual instructors may set shorter time limits for removing an incomplete than the 12-month time limit. Upon assigning an “I” grade, the instructor shall provide the student specification, in writing or by electronic mail, of the requirements to be fulfilled, and shall file a copy with the appropriate departmental office.

Students must not re-register for courses for which they have received an “I” grade.

The “I” must be changed to a grade before the degree conferral date if the student plans to graduate in that semester. At any time prior to the default date, students may elect to change the “I” grade to the default grade using the Grade Retrieval Form.

A default grade can be “B+,” “B,” “B-,” “C+,” “C,” “C-,” “D+,” “D,” or “F.” (If a student selected an S/U grading option, it will replace the default letter grade when the grade defaults.)

- **Disability Policy**: If you have any disability which requires reasonable accommodations to enable you to participate in this course please contact
the Office of Accessibility Resources, 25 Capen Hall, 645-2608, and also
the professor of this course during the first week of class. ODS will
provide you with information and review appropriate arrangements for
reasonable accommodations. http://www.ub-disability.buffalo.edu/

- Academic Integrity:

See http://undergrad-catalog.buffalo.edu/policies/course/integrity.shtml

Preamble: Academic integrity is a fundamental university value. Through
the honest completion of academic work, students sustain the integrity of the
university while facilitating the university’s imperative for the transmission
of knowledge and culture based upon the generation of new and innovative
ideas. When an instance of suspected or alleged academic dishonesty by a
student arises, it shall be resolved according to the following procedures.
These procedures assume that many questions of academic dishonesty will
be resolved through consultation between the student and the instructor (a
process known as consultative resolution, as explained below). It is
recommended that the instructor and student each consult with the
department chair, school or college dean, or the Office of the Senior Vice
Provost for Academic Affairs if there are any questions regarding these
procedures.

Examples of Academic Dishonesty: Academic dishonesty includes, but is
not limited to, the following:

- Previously submitted work. Submitting academically required material
  that has been previously submitted—in whole or in substantial part—in
  another course, without prior and expressed consent of the instructor.
- Plagiarism. Copying or receiving material from any source and
  submitting that material as one’s own, without acknowledging and citing
  the particular debts to the source (quotations, paraphrases, basic ideas), or
  in any other manner representing the work of another as one’s own.
- Cheating. Soliciting and/or receiving information from, or providing
  information to, another student or any other unauthorized source
  (including electronic sources such as cellular phones and PDAs), with the
  intent to deceive while completing an examination or individual
  assignment.
- Falsification of academic materials. Fabricating laboratory materials,
  notes, reports, or any forms of computer data; forging an instructor’s
name or initials; resubmitting an examination or assignment for reevaluation which has been altered without the instructor’s authorization; or submitting a report, paper, materials, computer data, or examination (or any considerable part thereof) prepared by any person other than the student responsible for the assignment.

- **Misrepresentation of documents.** Forgery, alteration, or misuse of any University or Official document, record, or instrument of identification.

- **Confidential academic materials.** Procurement, distribution or acceptance of examinations or laboratory results without prior and expressed consent of the instructor.

- **Selling academic assignments.** No person shall sell or offer for sale to any person enrolled at the University at Buffalo any academic assignment, or any inappropriate assistance in the preparation, research, or writing of any assignment, which the seller knows, or has reason to believe, is intended for submission in fulfillment of any course or academic program requirement.

- **Purchasing academic assignments.** No person shall purchase an academic assignment intended for submission in fulfillment of any course or academic program requirement.