

TRUSTS AND ESTATES COURSE SYLLABUS

UNIVERSITY OF BALTIMORE SCHOOL OF LAW

Spring 2020

Course: Trusts and Estates
LAW 758
Sections 311 (DAY) and 412 (EVENING)

Instructor: Professor Angela Vallario avallario@ubalt.edu
ALC 1013: Office hours Mondays 5:00pm to 6:00pm
410-837-4619

Days/Time: **Monday and Wednesday**
3:00PM TO 4:15PM (DAY)
6:15PM TO 7:30PM (EVENING)

Location: Check the Law School Class Schedule for room assignment.

Course Description: Intestate succession; wills, including formalities of execution, revocation and revival; incorporation by reference and related doctrines; problems of construction and interpretation, including class gifts, rule against perpetuities; non-probate transfers, including *inter vivos* gifts; probate and administration of estates; trusts, their nature, creation, modification and termination; rights of beneficiaries; express, resulting and constructive trusts; honorary and charitable trusts.

Course Materials: [Vallario, Fundamentals of Estate Planning \(Maryland\) Second Edition \(2019\). Carolina Academic Press](#) ISBN 978-1-5310-1158-8 (text). In addition to the required text assignments, cases are on the TWEN page and part of the required readings for this class. Finally, in light of trusts and estates being tested on the Uniform Bar Exam (UBE), relevant UBE questions are assigned as supplemental material and will be the basis for hypothetical questions throughout the semester and will be tested on the final exam in a multiple choice format.

Student Learning Outcomes:

At the successful completion of this course students will be able to:

1. Read and understand estates and trusts statutes and common law for Maryland, UPC and other jurisdictions.
2. Comprehend trusts and estates terminology.
3. Identify and distinguish probate and non-probate assets.
4. Calculate the intestacy shares for a spouse, descendants and collateral heirs.
5. Understand the process of a client interview for the preparation of a will, power of attorney and advance medical directive.
6. Assess strengths and weaknesses of estate planning options.
7. Explain the requirements for preparing a valid will and trust.
8. Address different types of trusts and the ramifications there of.
9. Apply the rules of the estate administration process to a hypothetical fact pattern.
10. Collaboratively solve trusts and estates legal problems.

Grades:

Midterm	20% - Monday, February 24, 2020
Final Exam	<u>80%</u> - check exam schedule
TOTAL	<u>100%</u>

Exam:

There will be a 2 to 3-hour closed book, CUMULATIVE final exam. The format will be similar to the Spring 2019 exam, posted on the TWEN page under "Practice Exams".

Course Expectations:

American Bar Association Accreditation Standards establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work per week for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

CLASS PREPARATION, PARTICIPATION, AND PROFESSIONALISM.

Students must be prepared for class. Excellent participation may increase your grade in the course whereas lack of preparation is likely to reduce your grade in this course up to a half-letter grade. **Every student is expected to be prepared for all problems in the assigned readings. Cases and Supplemental** material are found on the TWEN page. A bonus point will be awarded for excellent participation.

Attendance:

Prompt attendance at class meetings is expected. An attendance sheet will be distributed and it is your responsibility to initial the attendance sheet. The Honor Code applies with regard to initialing the attendance sheet. Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds 5 absences may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools. Perfect attendance will be awarded a bonus point.

Course Web Site:

A TWEN home page is being used for this course. Each student must register for TWEN and provide an email address that will be checked on a regular basis.

Computers:

Students may use laptop computers for class related purposes.

Class Cancellation:

If the instructor must cancel a class, notices will be sent to students via TWEN and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

Academic Integrity:

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or the School of Law. Violations of academic integrity include, but are not limited to: cheating; plagiarism; misuse of library materials; use of another's book or study materials without consent; unapproved multiple submissions; material misrepresentation of one's academic history or standing; misrepresentation of any academic matter; intentionally giving another student false or inaccurate information about class requirements; inappropriate discussion of exams; and misrepresenting or falsifying class attendance reports. [Reference to School of Law Honor Code, https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm]

Course Evaluations

It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

Title IX Sexual Harassment and Sexual Misconduct Policy:

The University of Baltimore's Sexual Harassment and Sexual Misconduct policies are compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the University any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

Disability Policy:

If you are a student with a documented disability who requires an accommodation for academic programs, exams, or access to the University's facilities, please contact the Office of Academic Affairs, at ublacadaff@ubalt.edu or (410) 837-4468.

Student Assistance Program (SAP) provides you with free, confidential, accessible support to manage life's challenges and stay healthy and safe while at UB. For more information <http://www.ubalt.edu/about-ub/offices-and-services/dean-of-students/sap/index.cfm>.

PART I	OVERVIEW	TEXT	CASES and SUPPLEMENT
Class 1 1/13	Overview of Trusts & Estates The Documents Probate and Non-Probate Assets	Ch. 1, p. 3-33	Gruen v. Gruen Franklin v. Anna First Nat Bank Green v. Green
Class 2 1/15	Ancillary Documents Power of Attorney Advance Medical Directive	Ch. 1, p. 8-20 Form 1-1 Form 1-4	King v. Bankerd AG Advance Directive form UBE February 2016 Q5
Class 3 1/22	Ethical Issues in Estate Planning Establishing the Attorney-Client	Ch. 2, p. 35-66 Ch. 3, p. 67-76	Holtz v. Minyard Barcelo v. Elliot Noble v. Bruce
PART II	INTESTATE SUCCESSION	TEXT	CASES and SUPPLEMENT
Class 4 1/27	Intestacy Statutes Surviving Spouse	Ch. 3, p. 84-88 Table 3-1	Intestacy Problems
Class 5 1/29	Intestacy Statutes Lineal Descendants	Ch. 3, p. 88-91	Intestacy Problems
Class 6 2/3	Intestacy Statutes Parents & Collateral Heirs	Ch. 3, p. 91-98	In re Locke Intestacy Problems
Class 7 2/5	Special Relationships Step child Adopted child Non-marital children Half bloods Posthumous conception	Ch. 3, p. 98-101	In re Donnelly's Estate In re Estate of Brittin Wingate v. Estate of Ryan Trimble v. Gordon UBE July 2012 Q9
Class 8 2/10	Additional Statutes Simultaneous death Disclaimer Advancements Slayer	Ch. 3, p. 102	Matter of Estate of Villwock Troy v. Hart UBE February 2012 Q5 Intestate Assessment Intestacy Problems
PART III	TESTATE SUCCESSION	TEXT	CASES and SUPPLEMENT
Class 9 2/12	The Will – Requirements Basic principles Formalities Safekeeping	Ch. 4, p. 106-108 Ch. 4, p. 113-127	Morris v. West's Estate First Interstate Bank of Oregon v. Henson-Hammer Castruccio NY §3-3.2 UBE July 2017 Q4
Class 10 2/17	The Will Dispositive Provisions Abatement Ademption	Ch. 4, p. 127-142	In re Estate of Potter McGee v. McGee UBE February 2009 Q3
Class 11 2/19	The Will Statutory Defaults Lapse Anti-lapse	Ch. 4, p. 108-112	In re Estate of Rehwinkel In re Ulrikson's Estate Testate Succession Problem
Class 12 2/24	Midterm- in class		

Class 13 2/26	The Will Non-Dispositive Provisions Exoneration Tax Provision Fiduciaries	Ch. 4, p. 142-168	
Class 14 3/2	What Constitutes the Will? Incorporation by reference Integration Facts of independent significance	Ch. 4, p. 112	Clark v. Greenhalge UBE February 2012 Q5 UBE February 2011 Q9
Class 15 3/4	Will Construction Ambiguities		Estate of Carroll In re Gibbs' Estate Britt v. Upchurch Knupp v. District of Columbia
Class 16 3/9	Revocation of Wills	Ch. 4, p. 168-171	In re Wolfe's Will Friedman v. Hannan Carter v. First United Methodist Church of Albany UBE February 2015 Q6 UBE July 2010 Q3
PART IV	LIMITATIONS ON TESTAMENTARY FREEDOM	TEXT	CASES and SUPPLEMENT
Class 17 3/11	Elective Share Approaches Traditional Augmented Estate	Ch. 4, p. 171-187	Sullivan v. Burkin Shimp v. Huff Maryland Statute
Class 18 3/16	Elective Share Augmented Estate Other Limitations Waiver Public Policy Slayer Pretermitted heir	Ch. 4, p. 187-190	Geddings v. Geddings Shapira v. Union Nat. Bank UBE July 2015 Q6
	SPRING BREAK	SPRING BREAK	SPRING BREAK
PART V	TRUSTS	TEXT	CASES and SUPPLEMENT
Class 19 3/18	Classification & Creation of Trusts Trust Requirements Parties to a Trust Fiduciary Duties and Powers	Ch. 5, p. 191-205	Moss v. Axford Spicer v. Wright Levin v. Fisch Goodman v. Goodman
Class 20 3/30	Creation of Trusts Testamentary Trusts Inter Vivos Trusts Revocable Irrevocable	Ch. 5, P. 205-207 Form 5-1 Table 5-1 Ch. 5, p. 224-228 Ch. 5, p. 244-246	Clymer v. Mayo Committee on Professional Ethics v. Baker
Class 21 4/1	Trust Provisions Power of Invasion Support Discretionary	Ch. 5, p. 207-212	Estate of Wells v. Sanford Marsman v. Nasca

Class 22 4/6	Trusts Provisions Spendthrift	Ch. 5, p. 212-216 Ch. 5, p. 236-237 Ch. 5, p. 251-252	Wilcox v. Gentry Scheffel v. Krueger Bacardi v. White UBE February 2019 Q5 UBE February 2011 Q1 Spendthrift Problems
Class 23 4/8	Trusts Provisions, Trustee Duties and Trust Administration Power of Appointment	Ch. 6, p. 272	Estate of Hamilton UBE July 2018 Q4 UBE February 2014 Q2
Class 24 4/13	Trust Modification and Termination	Ch. 5, p. 224 Ch. 5, p. 242-243 Ch. 5, p. 257	Connecticut General Life Ins. Co. Adams v. Link American Nat'l Bank of Cheyenne RS (Trusts) §65 UTC §411 UBE February 2017 Q2 UBE July 2015 Q6 UBE February 2013 Q8 UBE July 2012 Q1
Class 25 4/15	Trust Provisions Future Interest Rule Against Perpetuities Class gifts and class-closing rule	Ch. 5, p. 216 Ch. 5, p. 237 Ch. 5, p. 252 Table 5-1	UBE February 2010 Q8 RAP Problems
Class 26 4/20	Charitable Trusts Cy pre doctrine		Estate of Crawshaw UTC §413(a) UBE July 2011 Q3
PART VI	ESTATE ADMINISTRATION	TEXT	CASES and SUPPLEMENT
Class 27 4/22	Estate Administration Process <ul style="list-style-type: none"> • Opening the Estate • Inventory and Information Report • Accounts • Distributions • Commissions and Fees 	Ch. 14	Non-Probate Assessment
PART VII	WILL CONTESTS	TEXT	CASES and SUPPLEMENT
Class 28 4/27	Will Contests <ul style="list-style-type: none"> • Testamentary Capacity • Undue Influence 	Ch. 15	Haynes v. First Nat. State Bank of New Jersey In re Moses' Will UBE July 2009 Q9