

# ESTATES, WILLS, & TRUSTS

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Office Hours: My office hours are posted each semester on my office door.

## Course Books:

*Wills, Trusts, and Estate Administration for the Paralegal*, by Dennis R. Hower (Current addition)

*Estates, Powers, and Trust Laws/Surrogate's Court Procedure Act*, a Looseleaf publication

## Grading:

Class Participation:	10%
Quizzes	15%
Document Preparation	20%
Midterm Examination:	25%
Final Examination:	30%

## TESTS:

**If a student is unable to attend the midterm or final, the student must give me notice prior to the exam or the student may not be permitted to take the exam.**

All exams are "*open book*." The midterm and final are both scored on a "100 point scale." The format for the midterm and final exam is, generally, as follows: True/False (50 points) and Multiple Choice (40 to 50 points). Sometimes there are fill-in and short answer questions that make up any points not covered by the multiple choice questions. Typically, the final exam does not have any short answer questions. Quizzes are generally ten questions long and are of the same format of the midterm and final. There are generally four (4) quizzes.

**If a quiz is missed, no make-up will be allowed. The lowest quiz grade is dropped.**  
*Students are required to bring a #2 pencil to all quizzes and exams.*

## CLASS PARTICIPATION:

Class participation is composed of the following elements:

- Attendance (which includes being in class when the lecture begins and staying until the end of class);
- Attentiveness in class;
- Participating in class discussion;
- Exhibiting tolerance (not necessarily acceptance) to opposing point of view in class;
- Seeking help from me either in class, after class, during an office hour or a call to my law office if you are confused about any of the material; and
- Homework assigned (such as the short briefs and copying of forms).

## **DOCUMENT PREPARATION:**

The details of written assignments are reviewed when they are assigned. If a student is not in attendance on the day the assignment is reviewed, it is the student's responsibility to obtain the proper assignment from me. Case briefs are limited to three, typed pages.

All writing assignments must:

1. contain a cover page indicating the student's name, course name and course section number;
2. not to be written in "bullets" but rather in full sentences, and
3. be type written and stapled.

Any papers not containing both of the above will *not* be accepted or if accepted, points will be deducted from the papers. ***Students must keep an extra copy of all assignments. Typos, grammar, and spelling errors will reduce your grade.***

A couple of other quick tips on grading: if your name does not appear either on the cover sheet or the ***top of the first page*** of any document you hand in, five (5) points will be taken off the paper grade. Neatness also counts. You could lose up to five points for sloppy papers.

**Late papers are marked down one-half of a grade. Late papers handed in the last week of instruction are marked down ONE LETTER GRADE. Papers handed in during final's week are marked down ONE & ONE-HALF LETTER GRADES.**

***If a form or document requires a signature and/or notary stamp, then the paper must contain both the signature and notary and failure to do so will lead to, at most, a "D" grade on the paper.***

***Failure to put your name on a document handed in will result in the loss of 1/2 a letter grade.***

**ANY PLAGIARIZED PAPERS WILL LEAD TO AN AUTOMATIC "F" GRADE. UPON THE FIRST OCCURRENCE OF ANY SUCH PAPER, THE STUDENT SHALL HAVE THE OPTION TO RE-WRITE THE PAPER AND OBTAIN AN AVERAGE OF THE TWO SCORES. IF A STUDENT PLAGIARIZES A SECOND PAPER, THE STUDENT WILL BE SENT TO THE DEAN OF STUDENT AFFAIRS FOR THE APPROPRIATE DISPENSARY ACTION.**

**THE RULE IS SIMPLE: IF YOU TAKE WRITTEN MATERIAL FROM ANY SOURCE OR OBTAIN IDEAS FROM ANY SOURCE, THEN FOOTNOTE YOUR SOURCE AND INDICATE-- WITH QUOTATION MARKS--THE WRITTEN MATERIAL OBTAINED BY THE SOURCE.** UNLESS I INDICATE OTHERWISE, YOU ARE NOT ALLOWED TO DO "GROUP-WORK" WITH ANOTHER STUDENT OR STUDENTS. This does not mean you cannot discuss work with other students; but it does mean that you are prohibited from sitting together and writing out answers and assignments.

## **PAPER/EXAM RETENTION POLICY:**

Any papers handed in or scantrons not collected by the students by the end of the following academic semester will be thrown out.

**STUDENTS ARE EXPECTED TO BE ABLE TO ANSWER AND DISCUSS THE QUESTIONS AT THE END OF EACH CHAPTER**

**Class Assignments:**

**Chapter #1:**

The Estate Plan and the Purpose and Need for a Will (EPTL §1-2.1, §1-2.5, §1-2.6, §1.2-7, §1-2.13, §1-2.15, §1-2.16, §1-2.19, §3-1.1, §3-1.2, §3-2.1, and §3-2.2; and SCPA §103(8), §103(12), §103(13), §103(14), §103(19), §103(20), §103(21), §103(22), §103(33), §103(44), and §103(52))

Written Assignment: Write a two to three page paper on the need for a Will.

**Chapter #2:**

The Concept of Property Relating to Wills, Trusts, and Estate Administration (EPTL §6-2.1, §6-2.2, §5-1.1-A, §5-1.2, §5-1.3, §5-1.4, and §5-3.1, SCPA §2307-a)

Read: *Elective Share: An Attempt for Clarity*, in Handout.

**Chapter #3:**

The Participants and the Proper Court  
(EPTL §1-2.7, §11-1.1 and §11-1.3, SCPA §707, §2003)

Read: *Matter of the Estate of Britton*, in Handout.

Forms due: "SS-4" (you can find the form @ <http://www.irs.gov/pub/irs-fill/fss4.pdf>) or [www.sunywcc.edu/paralegal](http://www.sunywcc.edu/paralegal) under the "Forms" section) and Petition and Order to Open Safe Deposit Box

**Chapter #4:**

The Law of Succession: Death Testate or Intestate (EPTL §1-2.3, §1-2.6, §1-2.8, §1-2.10, §1-2.11, §1-2.14, §1-2.15, §1-2.16, §1-2.17, §2-1.5 §3-3.3, §3-4.3, §3-4.5, §4-1.1, §4-1.2, §4-1.4, §4-1.5, §4-1.6, §5-3.1, §5-3.2, §13-1.3 and 13-2.1; Public Health Law--handout--§2980, §2981, §2982, §2983, §2986, §2989, §2992, and §4301)

Cases to Read: *Matter of the Estate of Philip Thompson* (in relation to "joint will"); *Estate of Joshua W. Thayer* and *Matter of Sekanic* (in relation to §4-1.2); *In the Matter of Kiejliches* (in relation to §4-1.6) and *In the Matter of Philip K. Eichner and O'Connor* (in relation to terminating life Support), and *In Matter of Ferrara* (in relationship to Powers of Attorney), *Colavito V. New York Organ Donor Network, Inc.* (in relation to organ donation).

Forms due: N.Y. Health Care Proxy, Living Will, and Durable Power of Attorney  
See chart in hand-out on "per stirpes" & "By representation."

**Chapter #5:**

Wills: Validity Requirements, Modifications, Revocation, and Contests (EPTL §3-2.1, §3-2.2, §3-3.2, and §3-3.5, §3-4.1, §3-4.6, SCPA §103(39), §707, §709, §1401, §1403, §1404, §1406, §1407, §1408, §1410, and §1420).

Read: *In the Matter of the Estate of Esmond Martin*, *In re Gerhard Lang's Will*, and *Letters in the Estate of Elias Stoller* (in relation to §3-3.5) and *Objections to Probate—A Proponent's View*, in Handout.

**Chapter #6:** (Not covered by lectures)

Preparing to Draft a Will: Checklists and the Conference with the Client

Chapter #7: (Covered quickly in class.)

Final Draft & Execution of a Valid Will (EPTL §3-03.6, SCPA §1811, and Public Health Law §4301 [handout])

Written Assignment: Will & Self-proving Affidavit.  
*See hand-out for examples*

Chapter #12

Personal Representatives: Types, Pre-Probate Duties, and Appointment

Read: *Proceeding by BCT Federal Credit Union* and *In the Matter of Anthony LaPine*.

Chapter #13:

Probate and Estate Administration

Prepare Petition of Probate and other document in probate package.

Chapter #14:

Informal Probate Administration

Chapter #15:

Tax Considerations in the Administration of Estates

For the Night Final, your exam is on final's week at the same time the course generally meets.