
EXAM NUMBER

**Estates & Trusts – Prof. Strong
Spring 2019
Tuesday, May 7, 2019
1:30 p.m. – 4:30 p.m.**

Honor Code Reminder: Under the Honor Code, the submission of any academic work constitutes a representation on the student's part that such work has been done and submission is being made in compliance with all applicable provisions of the Code.

EXAM INSTRUCTIONS

1. **START OF EXAM:** *Do not start reading (other than this cover page) or writing on scrap paper until the proctor starts the exam.*
2. **EXAM NUMBER:** Write your exam number on the line above.
3. **LENGTH of EXAM:** This exam consists of three sections, which are weighed unevenly. The long essay question constitutes 40% of your grade for this exam; the two short answer questions together constitute 20% of your grade for this exam (10% each); and the eight very short answer responses together constitute 40% of your grade for this exam (5% each). You have three hours to complete this exam.

There is no page or word limit for your response to the long essay question. **THE ANSWER TO EACH SHORT ANSWER QUESTION IS LIMITED TO A MAXIMUM OF 1000 WORDS TYPED OR SIX (6) PAGES HANDWRITTEN, THOUGH YOU MAY BE ABLE TO ANSWER IN FEWER PAGES. THE ANSWER TO EACH VERY SHORT ANSWER QUESTION IS LIMITED TO A MAXIMUM OF 500 WORDS TYPED OR TWO (2) PAGES HANDWRITTEN, THOUGH YOU MAY BE ABLE TO ANSWER IN FEWER PAGES.**

Each answer must be self-contained. Do not “incorporate by reference” any material from one question to another, although you may incorporate by reference within subparts of the same question. Some questions are made up of multiple subparts. You are not required to answer the subparts in the order in which they appear or to label the portions of your answer accordingly, though you may choose to do so if it helps to write a coherent and persuasive answer. The answer to each question must begin on a new page. **ANSWERS OR PORTIONS OF ANSWERS NOT CONFORMING TO THESE INSTRUCTIONS MAY BE DISREGARDED OR PENALIZED. ANSWERS THAT EXCEED ANY APPLICABLE PAGE OR WORD LIMITS WILL BE PENALIZED.**

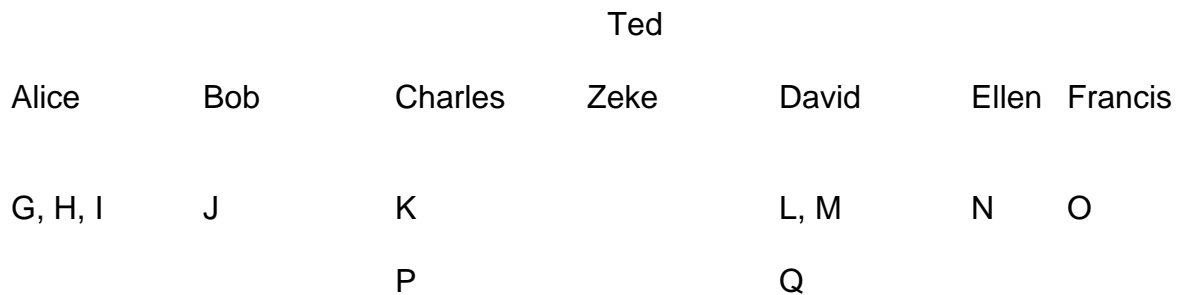
4. **EXAM MODE:** This is a **CLOSED** book examination.
5. **MATERIALS:** You are **NOT** allowed to bring or refer to any items during the test. You are **NOT** allowed to refer to any items during any breaks in the exam or any time outside the exam room.

6. You have not been provided with any specific statutes or code provisions for this examination. As such, you will not be expected to produce a word-for-word analysis of any statutory language or code provisions. However, you are encouraged to refer to any authority – including but not limited to statutes and model codes – whenever it would benefit your analysis, with as much specificity as you can.
7. **NUMBER OF PAGES:** The questions appear on seven (7) pages, including this page. Please check to make sure that you have the correct number of pages. You must answer each question. Define and apply relevant concepts whenever appropriate. Focus your answers to address the questions asked.
8. **JURISDICTION:** The facts outlined in the questions occurred in an UNKNOWN jurisdiction. In answering the question, you may analyze, apply and discuss any of the (sometimes) multiple versions of the law that you studied this semester. You can receive additional credit by stating and applying multiple versions of the legal principles involved in any particular question.
9. **ADVICE ABOUT ANSWERING THE ESSAY QUESTIONS:** Do not spend too much time on any one issue/sub-issue, but do not be overly conclusive in discussing a particular subject. An answer that correctly and completely analyzes an issue will receive a higher score for that issue than an answer that incorrectly or incompletely analyzes that issue. However, the essay questions will give rise to a number of different discussion points. Therefore, do not let yourself get too bogged down in any single discussion. Also, be sure to address all relevant issues raised by the facts, even if you think a single issue is dispositive. Finally, please note that your discussion of a certain problem (i.e., correct statements of the law, critical analysis of the legally contentious elements and application of the law to the relevant facts) is more important than your ultimate answer regarding the outcome of the dispute on that issue.
10. **ADVICE ABOUT ANSWERING THE VERY SHORT ANSWER QUESTIONS:** Be very direct in your response while still being as detailed as possible. Using terms of art may help with brevity. Concise references to legal authority will benefit you here, as in other portions of the examination.
11. **ADVICE TO THOSE WHO WISH THEY HAD MORE TIME OR SPACE:** Please note that you CANNOT turn in scrap paper or other supplements to your answer. Your answer must be contained within your blue book(s) or standard typed answer. If you find yourself about to run out of time or space, you may wish to start writing bullet points or other abbreviated phrases at the end of your answer. Although abbreviated bullet points probably will not receive as much credit as properly written responses regarding the same issues, they will be given some credit if they indicate a correct recognition of the legal issues raised by the facts and a correct, though presumably truncated, application of the law to the facts.

* DO NOT BEGIN EXAM UNTIL TOLD TO DO SO *

Long Essay Question
(40% of the final exam mark)
(10% each to subquestions 1 and 3, 20% to subquestion 2)

Ted the Testator has many children and wishes to benefit them at his death. His family tree is constructed as follows:



Alice, Bob, Charles and Zeke are Ted's natural (biological) children, whom he had with his first wife, now deceased. Alice has three children – G, H and I. Bob has one child – J. Charles has one child – K – and one grandchild – P. Zeke has no children.

David is the natural child of Ted's second wife, now deceased. Ted adopted David when David was ten years old. David has two children – L and M – and one grandchild – Q, who is L's child.

Ellen and Francis are the natural children of Ted's third wife, now deceased. Ted did not adopt Ellen or Francis. Ellen has one child – N – and Francis has one child – O.

(1) Ted has created a will with the following provision:

"I, Ted Testator, give to my children the following items at my death:
My mother's diamond ring to Alice.
My mother's silver service to Bob.
My grandmother's china to Charles.
My Porsche to David.
My house on Cape Cod to Ellen."

At the time of Ted's death, Alice, Charles, David and Ellen, G and M were already dead. How should the gifts be distributed and why?

(2) The will also states that:

"I, Ted Testator, put the residuary of my estate into trust for my son, Zeke, who is developmentally disabled. After Zeke's death, the corpus of the trust should be distributed to my heirs."

At the time of Zeke's death, only Alice, Charles, David and Ellen, G and M had passed away (the same as at Ted's death). How should the residuary be distributed and why? Consider all possible alternatives.

(3) Would your answer to subquestion (2) change if Bob and K had also passed away between the time of Ted's death and Zeke's death? If so, how and why?

Short Answer Question 1 of 2
(10% of the final exam mark)

A new client, Samantha Smith, comes to you for some advice. Samantha is 62 years old and independently wealthy. She has a number of trusts in place and simply wants to update her will to change a couple of specific bequests to people who have passed away since she last revised her estate plan. When making small talk with her, it comes out that she will be going into the hospital for gall bladder surgery in a couple of weeks. Samantha is very firm in her conviction that she does not want to alter her trusts and only wants to make the few minor amendments to her will. Are your tasks limited to drafting the will revisions for Samantha? What else might you do for her and why?

Short Answer Question 2 of 2
(10% of the final exam mark)

Jose is a wealthy individual who has been married for 30 years to Marisol, his somewhat spendthrift wife. Although Jose and Marisol have amassed a significant amount of property, most of it is in Jose's name so as to protect it from Marisol's extravagant spending habits.

In the last few years, Jose has become fascinated by Eastern philosophy, particularly a type of Buddhism practiced in a remote, mountainous community in India. He has been corresponding with the spiritual leader of this sect and has recently decided to renounce his wealth, move to India and become a monk.

Before leaving, Jose puts all his assets into an irrevocable trust. Proceeds from the trust are to be paid to his wife during her lifetime, based on the sole discretion of the trustee. After Marisol's death, the trust principle is to be distributed to the leader of Jose's spiritual community.

Before getting on the plane, Jose tells the trustee that he believes that Marisol is too focused on worldly goods and comfort. Therefore, Jose says that it would be his preference if the trustee limited the distribution of funds from the trust to only those items that are truly necessary.

Jose is tragically killed in a plane crash on his way to India. Marisol quickly learns that the trustee is interpreting Jose's words very strictly and is barely giving her enough money to live on. She is no longer capable of living the extravagant lifestyle to which she has become accustomed. Is there anything that she can do to change the situation? What obstacles might she face?

**Very Short Answer Questions
(40% of your final exam grade)
(each question is worth 5% of the final exam mark)**

- a. Define the class closing rule, its use and its importance in estate and trusts law.
- b. Describe three ways that a will may be revoked or amended, in whole or in part, as an operation of law.
- c. Identify what is included in the augmented estate. Why has the Uniform Probate Code adopted this approach?
- d. Identify (a) three ways that a lawyer can incur some type of personal liability in an estates and trusts practice and (b) how that attorney can guard against such liability.
- e. Identify three differences between the law and practice regarding (i) wills and (ii) trusts.
- f. Describe the order of abatement and the policy rationales supporting that order.
- g. Identify the differences between a challenge to a will and a claim of tortious interference with an expectancy.
- h. Trust and estate law often changes quite slowly. However, this term we have seen a number of ways in which the law has responded to new social and legal realities. The senior partners in any law firm you join may not be up to date on these matters. Briefly describe one way that estate and trust law or practice has changed in the last five to ten years. In answering this question, you may rely on the casebook, ancillary reading or materials from the team presentations.

END OF EXAMINATION QUESTIONS