This is a course on the intricate details of estates and future interests. The vast majority of future interest problems today occur in the context of trusts, and so most of the class will be spent on typical trust scenarios. However, there are still lingering defeasible fee and reverter problems that arise in the context of real property limitations which we will discuss first. We will cover the basic estates and future interests, the rule against perpetuities and its modern substitutes, typical trust issues with class gifts and survivorship, powers of appointment, and some of the more unusual stumbling blocks for trust construction like the Rule in Shelley’s case and the Doctrine of Worthier Title.

The class will be divided into five topical sections and there will be a quiz at the end of each section. There will be no final exam; your final grade will be determined by your grades on the five quizzes and class participation. If you cannot make a quiz, I need to know as soon as possible in order to make arrangements for a make-up. I am structuring the class this way to ensure that you master each section before we move onto the next, because you will need to apply what you learned in the earlier sections to the material in the later sections. The quizzes will consist of problems and short essays dealing with policy issues and will each last about 40 minutes.

Although there is a lot of history in this course, you need not focus on the actual events that spawned certain legal developments. Rather, you should know the impetus for the changes and how those changes influenced conveyancing techniques. I want you to think as well about how, if at all, the justifications for certain rules may remain applicable or may have fallen into desuetude over the years.

Attendance: Attendance is required. I reserve the right to dismiss from class any student who misses more than 10% of regularly scheduled classes.


Accommodations: Students requesting classroom or examination accommodations must first register with the Dean of Students' Office, which will provide documentation to you and me about the type of accommodation to be provided.

Honor Code: As you no doubt realize, you are bound by the College of Law Honor Code and Conduct Code while in this class. Outside of class, I believe you should cooperate with each other as much as possible. You should form a study group and work on practice problems together. In class, you may share notes, books, and outlines and feel free to come to a colleague’s aid if he/she is stumbling over a question. But ultimately you will need to master this
material if you are to competently represent a client. I encourage you to ask questions during office hours and get involved in the issues we will discuss.

Learning Outcomes: The law of estates and future interests is both incredibly complicated and surprisingly interesting. Unfortunately, most lawyers learn what they think they need in first year property and forget it all after the bar exam. For anyone practicing in the area of trusts and estates, however, this area of law is incredibly important. This is an upper-level specialty class for those pursuing a T&E practice or practice in real estate. I have two aims in this class. First is to ensure that if you ever draft any trust involving a future interest that you will know exactly how to do it clearly, concisely, and correctly so that your client’s trusts won’t be litigated and your client’s descendants will enjoy the fruits of your client’s generosity without needless administrative expenses. Second, I want to ensure that if you represent a client who is a beneficiary of a trust that was badly drafted, that you will know precisely what went wrong, how it went wrong, and can litigate that trust to your client’s benefit. In this area of law, perhaps more than any other area, you are likely to be the most knowledgeable person on the subject and will need to advise your clients, instruct the judge, and help make the law understandable to a lot of people who have forgotten what little they knew. Plus, it helps at cocktail parties.

The reason for the quizzes is that you need to master the subject as we go along because it builds upon the early foundations. Quizzes also reflect the kind of situations you are most likely to face in practice, either in drafting or in litigating future interests.

Reading Assignments: We will go through the book in order, from cover to cover. But although I will give you detailed daily reading assignments, it would be better always to be at least one day ahead of class – we may get behind in certain classes and push ahead in others. The quiz days may also be adjusted a bit, although I will try hard not to have to change quiz dates. It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

First Day’s Reading Assignment: Read pp. iii-viii and 1-18 and come to class with at least three questions you have about how, if at all, this historical material might be relevant today.

Second Day’s Reading Assignment: Read pp. 19-36.

I will distribute on the second day a full schedule of the reading assignments and quiz dates.