LAW 6930 TRUSTS AND ESTATES – (4 Credits)
SYLLABUS

This is a class on decedent's estates and trusts and an introduction to estate planning. It is not a class on fiduciary duties, future interests, estate tax, or property, even though we will be touching on many issues that are covered more thoroughly in those classes. It should be emphasized that this is only an introduction to estate planning. For those interested in practicing in this area, it will be necessary to take a number of other courses or become fluent in those specific areas.

This class will focus principally on transfers of property through the law of intestate succession, wills, and will substitutes. In particular, we will study the requisite formalities for creation of a valid will, for revocation of a will, and such specific doctrines as lapse of gifts, class gifts, and homestead and family allowances, to name a few. We will also examine basic inter vivos and testamentary trusts, including discretionary, revocable, spendthrift, and charitable trusts. We will cover powers of appointment, joint tenancies, POD accounts, and other will substitutes.

Required Texts:

Danaya C. Wright, *The Law of Succession: Wills, Trusts, and Estates* (Foundation Press, 2013).¹

You will also be required to print out and bring to class each day a booklet of the relevant Florida Statutes which I will email to you the first day of class.

Requirements:

You will be expected to brief every case in preparation for class and answer all assigned problems. I expect every member of the class to be able to engage in thoughtful, considered discussion of the cases and the issues for each day. This is not a first year course but I will call on people randomly to discuss the cases. If you aren’t called on, I expect you to contribute to the discussion at your own discretion.

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

¹ Disclosure: As the author of this textbook, I would normally receive royalties and therefore benefit financially from any student’s purchase of this book. For student in my class, however, I donate all royalties from the purchase of new copies of this textbook to the Levin College of Law.
don’t really want to know why you are absent each day. Just assume that you need to attend a majority of class so as not to be excluded from taking the final exam.

**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 take practice exams 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. I ask that you not interrupt your classmates, disparage their questions or answers, or imply (either inside or outside of class) that their questions are not worthy of our attention. I also ask that if you are not going to pay attention in class that you not distract your classmates, but rather sit quietly and do other work.

**Final Examination:**

The final exam will be open book and open notes; you may bring in any written text you desire. The exam will consist entirely of short answer questions, some of which will require a calculator. Some questions will require only a yes or no answer. Others will require a dollar value, or a percentage of an estate. Most, however, will require 2 or 3 sentences of explanation about how a doctrine might apply in a given circumstance.

**Learning Outcomes:**

This is an introductory class that will introduce you to the vast majority of rules and doctrines that apply in the context of the succession of property at death. Since we all will die, we all will pass our property in some form or another to our successors. This is a huge area of law with many different kinds of rules and doctrines. At the end of the course, you should be able to draft a basic will, understand what issues your client will face, and know the law of Florida. The main skill we will focus on is identifying the relevant rules that govern a particular transaction, the gaps in those rules that are subject to common law doctrines, the appropriate interpretation of statutes, and the ways in which these diverse rules affect a client’s testamentary plan. This class is organized to focus primarily on planning for a client’s death and the succession of her property. This means we will examine the many traps and how to avoid them so that your client’s plan progresses as intended. At the end of the course we will look at some doctrines that arise in the context of litigation so that you will be able to avoid those traps when you plan, and so you are competent if litigation ensues. There is a lot of material that we will cover in this class, but noted below are the priorities that we will address in each class.
Office: Holland 352

Office Hours:

After class each day so long as someone shows up.

At other times, in the afternoon, and by appointment. But please try not to drop by my office immediately before class unless you have a really really short question.

EMail: wrightdc@law.ufl.edu

Reading Assignments:

Below is a list of the anticipated class periods to be spent on each subject and the assigned pages, problems, and Florida Code provisions. Although we will progress through the material in the following order, minor changes may need to be made throughout the semester to accommodate unforeseen delays. Please try to stay comfortably ahead in the readings. Also, there is a lot of reading each day because we are covering the material more quickly than in a first year class. Thus, class discussion will focus more on certain items, and less on others, in the following order:

1. Legal rules
2. Fla. statutes
3. UPC provisions
4. cases and case rules
5. problems
6. notes and questions
7. law review commentaries
8. lawyer ethics and drafting hints.

The last three you may skim accordingly. Please read them but don’t feel that you need to focus heavily on them in your preparation. We will work problems in class to the extent we have time.

Squib Cases

You will notice that this casebook is noticeably different from other casebooks you may be using. The main difference is that rather than a single case on which we might spend half an hour, there are five or more very short cases that make a single point. To prepare for these cases you do not need to brief every one. Instead, what I want you to do is prepare a single sentence that highlights the relevant facts, issue, and resolution
of the case. For instance, I might ask: “What is the Burke case about?” (p. 178-179). A good answer would be something like this: “In Burke, the testator could not physically see the witnesses sign, but she knew they were signing, there was no evidence of fraud, and her intent was clear enough for the court to apply the conscious presence test rather than the line-of-sight test.” Then I want you to answer the queries that follow the squib case. Finally, I want you to be able to address whether the outcome in the case makes sense in light of the rules and priorities of succession law. In Burke, there aren’t any questions about the signing and witnessing of the will, but there might be legitimate questions about the testator’s mental competence. What do you think is the right outcome?

General Overview of Readings
Chapter 1 – 1 week
Chapter 2 – 1 week
Chapter 3 – 1 week
Chapter 4 – 4 weeks
Chapter 5 – 1 ½ weeks
Chapter 6 – 1 week
Chapter 7 – 1 week
Chapter 8 – 1 ½ weeks
Chapter 9 – omit
Chapter 10 – 1 week
Chapter 11 – 1 week
Chapter 12 - omit

Class Subject & Assignment

We will proceed through the book in order, from page 1 to the end. I hope we can finish the book, but there may be sections that we will skip in the interests of time. Here are the first two reading assignments. I will distribute a detailed daily list of reading assignments with the statute packet.

1. Introduction and Donative Freedom
   Read pp. vii-xix and 3-19
   Fla. Stat. 731.201, 731.011

2. Gifts and Limit on Donative Freedom, Family Protections, Administration
   Read pp. 19-52
   Fl. Stat. 731.102, 731.103, 732.901, 733.101 to 733.109, 733.201 to 733.6171, 735.201 to 735.2063, 735.301, 735.302. (you can skim these administration statutes – just get the basic details)