

Florida Trusts, Wills & Estates - LAW 6930

2 Credits

Professor Michael Friel

Spring 2019 Syllabus

Class Meeting Times: Tu & W 9:00 am - 9:50 am; Room 285C

Contact Information:

Office Location: 375 Holland Hall

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Office Hours: Tuesday & Wednesdays 10:00 - 11:00 am or by appointment.

Required and Recommended Textbooks and Other Course Materials:

Required: Gratuitous Transfers: Wills, Intestate Succession, Trusts, Gifts, Future Interests, and Estate & Gift Taxation (7th edition, 2019) by Ascher & McCouch.

Course Description and Methodology

The central theme of this course will be the examination of Florida's statutory, judicial and constitutional rules relating to the gratuitous transfer of property principally through intestate succession, wills, gifts, and trusts. We will explore these rules and their development through the study of statutes and case law. The course will be taught primarily through the discussion of cases and problems presented by the course materials, with limited time on overview lectures.

Course Objectives:

To articulate Florida's fundamental requirements for the gratuitous transfers of property.

To analyze state statutes and case law regulating gratuitous transfers of property.

To solve problems encountered in attempts to transfer property to others under Florida law.

Learning Outcomes

After completing this course, students should be able to:

1. Describe the provisions of state law that place limitations on gratuitous transfers;
2. Demonstrate an understanding of Florida laws of intestacy, wills, gifts and trusts;
3. Determine which laws apply to which types of gratuitous transfers;
4. Identify questions that must be answered in designing gratuitous transfer laws; and
5. Describe the consequences to transferor and transferees of alternative gratuitous property transfers.

Class Attendance Policy

Regular class attendance and preparation are required. You are expected to attend class and to be prepared to respond to questions. Attendance will be taken each day. You should notify me by email of the reason for any class absence so that I may determine and advise you whether the absence is excused or unexcused. If you have more than three unexcused absences, you may be barred from submitting the final paper or may be subject to a grade reduction of up to one full letter grade.

Workload/Class Preparation

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. State and Local Taxation has 2 “classroom hours” of in-class instruction each week, requiring at least 4 hours of preparation outside of class. You will have about 60 pages of reading with discussion problems each week. Because the course involves case law and statutory material that require careful reading and discussion problems that require advance preparation, you should spend at least one hour of preparation on every 15 pages of reading.

Evaluation

The grade in the course will be based on the final examination.

Course Papers

The short papers will be due at 3-week intervals beginning about mid-way through the semester and the final paper will be due at the end of the Spring exam period. There will be class presentations at the end of the semester based on outlines of the final paper. All papers will be on topics that are subject to the approval of the professor. There will not be a final exam in this course.

Policy Related to Make-up Papers:

The law school policy on delay in submitting papers can be found at:
<http://www.law.ufl.edu/students/policies.shtml#12>.

Statement Related to Accommodations for Students with Disabilities:

Students requesting classroom accommodation must first register with the Office of Disability Resources. The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.

Other Law School Policies:

The law school academic policies may be found at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies>. The law school honor code may be found at <http://www.law.ufl.edu/student-affairs/additional-information/honor-code-and-committee>.

Students are expected to provide feedback on the quality of instruction in this course based on 10 criteria. These evaluations are conducted online at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu>.

Information on UF Law Grading Policies:

Grade:	Points
A	4.0 (Excellent)
A-	3.67
B+	3.33
B	3.0 (Good)
B-	2.67
C+	2.33
C	2.0 (Satisfactory)
C-	1.67
D+	1.33
D	1.0 (Poor)
D-	0.67
E	0.0 (Failure)

The law school grading policy is available at: <http://www.law.ufl.edu/students/policies.shtml#9>.

Course Schedule and Assignments

(Assignments are to chapters and pages in the Ascher, McCouch casebook and to the Florida Statutes as indicated.)

Week 1: Introduction

Intestate Succession - Surviving Spouse pp. 55-70. FS 732.101-.105, -.107, -.601

Week 2: Intestate Succession - Representation Among Descendants; Ancestors and Collaterals, pp. 70-83. FS [same]

Intestate Succession - Nonmarital Children, pp. 96-103. FS 732.106, -.108; 742.17

Week 3: Intestate Succession - Advancement, Release, Assignment & Disclaimer, pp. 135-46. FS 733.806; 732.802; 739.102-402. FS 733.806; 732.802; 739.102-.402

Protection of the Family - Statutory Allowances (Homestead), Social Security, Elective Share, pp. 147-58, 162-65, 170-72. FS 732.401-.4015; 732.201-.2145, .402-.403, .702.

Week 4: Protection of the Family - Augmented Estate, Omitted Heirs, pp. 172-77, 207-08, 213-15. FS [same], 732.301-.302.

Grounds for Contest - Testamentary Capacity, pp. 230-35, 240-42. FS 732.501, .5165-.517, .805, .806; 733.107

Week 5: Grounds for Contest - Undue Influence; Fraud, Duress, Mistake, pp. 256-57, 264-69, 292-302. FS [same]

Wills - Formalities, pp. 307-18. FS 732.502-.504

Week 6: Wills - Interested Witnesses, Harmless Error, pp. 328-40

Wills - Will Components, pp. 381-96. FS 732.5105-.512, .515.

Week 7: Wills - Will Contracts, pp. 396-408. FS 732.513, .701.

Wills - Revocations, pp. 409-10, 413-25, 429-30. FS 732.505-.506, .507-.509. .703; 733.207; 736.1105

Course Schedule and Assignments, Cont.

Week 8: Wills - Mistake, pp. 444-45, 456-61. FS 732.603-.604, .606, .615, .609; 733.803-.805
Wills - Ademption, Satisfaction, Abatement, Exoneration, Lapse, pp. 461-75. FS
[same]

Week 9: Gifts - Lifetime Gifts, pp. 485-86, 489-91, 494-500, 506-25. FS 485-528.
Gifts - Contractual and Survivorship Arrangements, pp. 521-43. FS 528-543; 689.075.

Week 10: Trusts - Creation, pp. 545-63. FS 736.0401-.0404, 0407, 0603.
Trusts - Spendthrift Trusts, pp. 586-610. FS 736.0501-.0505.

Week 11: Trusts - Discretionary and Self-Settled Trusts, pp. 610-30
Trusts - Termination, pp. 631-50. FS 736.0602, .04113-.0412.

Week 12: Trusts - Noncharitable Purpose, Cy Pres, pp. Supplement. FS 736.0408-.0409,
736.0405, .0413.
Fiduciary Administration- Duty of Loyalty, Investments, pp. Supplement. FS
736.0801-.0802, .0803-.0804; 518.11-.112

Week 13: Fiduciary Administration - Duty of Impartiality, Fiduciary Discretion, pp. Supplement
Future Interests - Classification of Future Interest, pp. Supplement. FS 736.1106.

Week 14: Future Interests - Survival Requirements, Class Gifts, pp. Supplement.
Future Interests - Powers of Appointment, Rule v .Perpetuities, pp. Supplement. FS
689.225.