

TRUSTS & ESTATES
(LAW 6930)
(4 credit hours)

Professor McCouch

Spring 2022

Office Hours, Telephone and E-mail

My office is located in Holland Hall 312B. Regular office hours are on Tuesday and Thursday from 10:30–11:30 a.m., or by appointment. If I am in my office and the door is open, you are welcome to drop by. You can also reach me by telephone at 352.273.0991 or by e-mail at gmccouch@law.ufl.edu.

Course Materials

The assigned casebook for the course is Ascher & McCouch, *Gratuitous Transfers* (7th ed.) (West 2019). Students should also have a copy of the Florida Statutory Supplement and handout problems, which will be posted on the course website (TWEN). Supplementary background readings (optional, not required) are McGovern, Kurtz & English, *Principles of Wills, Trusts and Estates* (concise hornbook) (2d ed.) (West 2011), and Haskell, *Preface to Wills, Trusts and Administration* (2d ed.) (Foundation 1994).

Course Objectives

The primary objective of the course is to introduce students to fundamental concepts and doctrines of inheritance law, including intestate succession, wills, and trusts. The course provides an essential grounding for students who wish to pursue advanced courses in fiduciary administration, future interests, and estate planning, as well as a general survey for students who intend to practice in other areas.

Class Meetings and Attendance

Class will meet in Room 285C at 9:00–10:15 a.m. on Monday, Tuesday, and Thursday, beginning Tuesday, January 18. Regular and punctual class attendance is required. A student with more than three unexcused class absences may be penalized in the final grade or excluded from the course. Students should be prepared to discuss the assigned readings in class, and may expect to spend up to two hours of preparation for every class hour.

Topical Outline

Topics will be covered in the following order, with assigned reading in the casebook and the Florida Statutes as indicated. The assigned reading for the first week of class is Chapter 1 of the casebook (pp. 1–54).

<u>Week</u>	<u>Topic</u>	<u>Casebook</u>	<u>Fla. Stat. §§</u>
	Ch. 1: Introduction		
Jan. 17	Inheritance, Testation, and Probate	1–54	
	Ch. 2: Intestate Succession		
Jan. 24	Spouse, Issue, Ancestors and Collaterals	55–83	732.101–.105, 732.107, 732.601
	Adopted and Nonmarital Children	83–117	732.106, 732.108, 742.17
Jan. 31	Advancements; Homicide; Disclaimer	117–146	733.806, 732.802, 739.102–.402
	Ch. 3: Family Protection		
	Homestead and Statutory Allowances	147–198	732.401–.403, 732.702
	Elective Share		732.201–.2145
Feb. 7	Omitted Heirs	198–215	732.301–.302
	Ch. 4: Grounds for Contest		
	Capacity, Undue Influence, Fraud and Mistake	223–302	732.501, 732.5165–.517, 732.805, 732.806, 733.107
	Ch. 5: Wills		
Feb. 14	Attested Wills; Holographic Wills	303–381	732.502–.504, 732.521–.526
	Will Components	381–396	732.5105–.512, 732.515
	Will Contracts	396–408	732.513, 732.701
Feb. 21	Revocation and Amendment;	408–421	732.505–.506, 733.207
	Revival	421–424	732.507–.509
	Dependent Relative Revocation	424–429	
Feb. 28	Revocation by Divorce	429–444	732.703, 736.1105
	Ambiguity; Mistake; Ademption	444–472	732.606, 732.615, 732.609, 733.803–.805
Mar. 7	[spring break]		
Mar. 14	Lapse	472–484	732.603–.604
	Ch. 6: Gifts		
	Lifetime Gifts; Nonprobate Transfers	485–528	
	Revocable Trusts	528–543	689.075
Mar. 21	Ch. 7: Trusts		
	Trust Creation	545–563, 581–586	736.0401–.0404, 736.0407, 736.0603
	Spendthrift Trusts	586–598	736.0501–.0505
	Discretionary and Self-Settled Trusts	610–615, 626–630	
Mar. 28	Revocation, Modification and Termination	631–639 649–650	736.0602, 736.04113–.0412
	Trusts for Noncharitable Purposes	Supp.	736.0408–.0409
	Charitable Trusts; Cy Pres	Supp.	736.0405, 736.0413
Apr. 4	Ch. 8: Fiduciary Administration		
	Duty of Loyalty	Supp.	736.0801–.0802
	Trust Investments	Supp.	736.0803–.0804, 518.11–.112
	Duty of Impartiality; Fiduciary Discretion		
Apr. 11	Ch. 9: Future Interests		
	Classification of Future Interests		
	Survival Requirements; Class Gifts	Supp.	736.1106
	Powers of Appointment		
Apr. 18	Rule Against Perpetuities	Supp.	689.225
Apr. 25	Review		

Evaluation

Students will be evaluated primarily based on the final examination, which will be graded anonymously. Grades will follow the law school grading policy, which is available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. In calculating the final grade for the course, the grade awarded on the final examination may be raised by one grade level to reflect active, voluntary participation of consistently high quality in class discussion.

Students are encouraged to provide feedback on this course by completing an online evaluation shortly before the end of the semester. Students will be notified in advance of the online evaluation period. Summary results of the evaluation are available at <https://gatorevals.aa.ufl.edu/public-results/>.

Learning Outcomes

Upon completion of the course, students should have a basic understanding of the laws of intestacy, wills, and trusts, enabling them to analyze practical applications and planning alternatives and preparing them to pursue advanced courses in personal and estate planning.

Makeup Exams

The law school policy on delay in taking exams can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

Disability Accommodation

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352.392.8565, <https://disability.ufl.edu/get-started/>) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the Law School Office of Student Affairs when requesting accommodations. Students with disabilities should follow this procedure as early as possible in the semester.

Honor Code

Students are subject to the UF Student Honor Code, which can be found at <https://sccr.dso.ufl.edu/process/student-conduct-code/>.