Course Materials


2. Selected sections of the Colorado Revised Statutes and additional reference material as indicated in the Syllabus and on the TWEN website.

I may also send notices or other communications through the TWEN website. Therefore, if you have not already done so, please register on that site for this course so that you may receive all notifications on a timely basis.

Meetings
We will meet Mondays and Wednesdays from 1:00pm to 2:20pm in Room 204, beginning on Aug. 25th.

Office Hours
I will not have regularly scheduled office hours, and therefore the best time to ask me questions will be immediately after class. I am also available to meet with students by appointment; however, I am most accessible via email.

Attendance & Class Participation
I very much value class attendance and participation and will count both toward your final grade.

I will pass around a seating chart on Wednesday, August 27th. Please sit where you would like to remain for the rest of the semester on that day.

To encourage your participation in our discussions, I will be using the following policy: Starting on Wednesday, September 3rd, I will bring a copy of the seating chart to each class, dated for that day. If you are present and prepared to be called on, please circle your name on the chart when you arrive—you will then be counted as present and prepared for that day and I will feel free to call on you. If you arrive late—but not more than 10 minutes after class begins—you may still sign up but that will require you to interrupt the class, so please be mindful and be punctual.

I will not call on anyone who has not circled their name. However, if you are not “present and prepared” more than five (5) times, your grade for the semester will be lowered by three points (or more in extreme cases). On the other hand, I will increase your final grade for consistent, insightful contributions, including during voluntary participation.

To be considered prepared you must have read the assignment and have made an effort to understand the materials (including cases, author notes, problems, etc.); however, your answers need not be perfect by any means. Instead, your answers should reflect a good faith effort with the material. If you do sign up as prepared, and I call on you, and you are not prepared, I reserve the right to lower your final grade by an additional point per occurrence.

Final Examination
The final examination will be multiple choice and about three hours long. The examination will cover the entire course, including all of the assigned reading and class discussion. You may be expected to perform simple mathematical problems for the final exam; however a calculator will not be permitted or required. It will be a (very) limited open book exam in that you will only be permitted to bring in pencils and Colorado Revised Statutes, with no other notes or material. Blue books, laptops, typewriters (and calculators) are not necessary nor permitted. You will be expected to understand and be capable of applying the Colorado Revised Statutes assigned in the syllabus and/or class, the Uniform Probate Code, common law and the law of other jurisdictions that we study, but will not be expected to memorize statute or article numbers.
Syllabus:

August 25
Transferring Property at Death: Justification and Limitations
Chapter 1, Section A. p. 1-12, 20-30

August 27
Probate and Non-Probate Property: The Process of Probate / Professional Responsibility
Chapter 1, Section B, p. 30-40
Chapter 1, Section D, p. 48-58

September 1
No Class, Labor Day

September 3
Share of Surviving Spouse / Simultaneous Death
Chapter 2, Section A, p. 59-83

September 8
Transfers to Children (Posthumous / Adopted / Non-marital Children) / Advancements
Bars to Succession
Chapter 2, Section B, p.83-94; 99-116; 126-132

September 10
Wills: Capacity and Contests
Mental Capacity, Insane Delusion, Mistake & Undue Influence
Chapter 3, Section A, p. 141 through end of Notes/Questions in middle of p. 156
Chapter 3, Section B, p. 158 - top of p. 174
C.R.S. §§15-11-501, 517

September 15
Fraud, Duress & Tortious Interference / The “Probate Exception”
Chapter 3, Sections C, D & E, p. 186-197
Marshall v. Marshall, 126 S.Ct. 1735 (2006) Case may be obtained via Lexis or Westlaw; also on TWEN).

September 17
Wills: Formalities and Forms
Requirements of Due Execution
Chapter 4, Section A, p. 199-225
C.R.S. §§15-11-502 through 506

September 22
Curative Doctrines
Chapter 4, Section A, cont’d, p. 225-251
C.R.S. §§15-11-502 through 506 (same as September 17th assignment)

September 24
Revocation of Wills
Chapter 4, Section B, p. 251-270
C.R.S. §§15-11-507, 509; 15-11-802
September 29
Components of a Will / Contracts Relating to Wills
Chapter 4, Sections C & D, p. 271-289
C.R.S. §§15-11-513 and 15-11-514

October 1
Construction of Wills – Mistake or Ambiguous Language
Chapter 6, Section A, p. 365-387

October 6
Anti-Lapse / Class Gifts / Changes in Property After Execution of Will
Chapter 6, Sections B & C, p. 387-415
C.R.S. §§ 15-11-603 through 15-11-607; §15-11-609; §15-11-902

October 8
Protecting the Survivors – Rights of Surviving Spouse (Elective Share / Augmented Estate)
Chapter 7, Section A, p. 417-428; 447-451
C.R.S. §15-11-201 through §15-11-204; §15-11-401 through §15-11-405

October 13
Surviving Spouse’s Rights (cont’d)
Chapter 7, Section A (cont’d), p. 451-466
C.R.S. §15-11-207; §14-2-307; §15-11-301

October 15
Omitted Children
Chapter 7, Section B, p. 466-468; 473-481
C.R.S. §15-11-302

October 20
Nonprobate Transfers - Will Substitutes / Revocable Trusts
Chapter 5, Section A & B, p. 295-321
C.R.S. §15-11-511; §15-15-103

October 22
Life Insurance, Retirement Accounts, Contracts with POD, Multi-Party Bank Accounts, JTWROS, etc.
Chapter 5, Sections C & D, p. 322-345

October 27
Trusts – Introduction & Creation
Chapter 8, Portions of Section A & B:
p. 485-496; p. 498 through Note 1 p. 502; Bottom p. 503- top p. 504 (text only, not Nye case); Bottom p. 508-p. 511 (not Brainard case).

October 29
Trust Beneficiaries
Chapter 8, Section B (cont’d) & Section C, p. 518-530; p. 533-543;
C.R.S. §15-11-901
November 3
Rights of Beneficiary’s Creditors
Chapter 8, Section D, p. 543-569

November 5
Modification and Termination of Trusts / Building Flexibility Into Trusts
Chapter 8, Section E, p. 572-587
Chapter 9, Section A, p. 589-597

November 10
Creation, Release and Exercise of Powers of Appointment
Sections B through E, p. 598-622

November 12
Powers of Attorney & Planning for Incapacity
Chapter 5, Section E, p.345-363

November 17
Charitable Trusts
Sections A & B, p. 729-750

November 19
Trust Administration: The Fiduciary Obligation – Intro and Duty of Loyalty
Chapter 13, Sections A & B, p. 777-791

November 24 and 26: Fall Break, no class

December 1
Trust Administration – The Duty of Prudence
Chapter 13, Section C, p. 791-792; p. 805-820

December 3 (Last Class)
Trust Administration (cont’d)
Chapter 13, Sections E & F, p. 830-843

Final Exam: December 15, 1:15pm