

STUDENT EXAM NO. _____

**Final Examination
Estates & Trusts – Fall 2010
Professor Strong
University of Missouri School of Law**

INSTRUCTIONS

1. This is an in-class examination that will be taken in the law school between 8:30 a.m. and 11:30 a.m. on Friday, December 10. At the end of the exam, you must turn in:

- One long essay answer (in computer or blue book form);
- Two short answer essays (in computer or blue book form);
- Nine very short answer responses (in computer or blue book form); and
- This exam, with your examination number on the first page.

2. You are allowed to use your time as you see fit. However, if you are taking any portion of the exam on your computer, you must turn on your computer at the beginning of the exam period. Those using a computer should follow all standard Law School rules for using a computer in exams and all instructions from exam proctors.

3. This exam will be graded anonymously. Do not put your name or student identification number on the exam or your answer sheets and do not identify yourself in any way in your exam answers.

4. You have not been provided with any specific statutes or code provisions for this examination. As such, you will not be expected to produce a word-for-word analysis of any statutory language or code provisions. However, you are encouraged to refer to any authority – including but not limited to statutes and model codes – whenever it would benefit your analysis, with as much specificity as you can.

5. This exam consists of three sections, which are weighed unevenly. The long essay question constitutes 33% of your grade for this exam; the two short answer questions together constitute 22% of your grade for this exam (11% each); and the nine very short answer responses together constitute 45% of your grade for this exam (5% each). The exam as a whole appears on eight (8) pages, including this page. You must answer each question. Define and apply relevant concepts whenever appropriate. Focus your answers to address the questions asked.

6. There is no page or word limit for your response to the long essay question. **THE ANSWER TO EACH SHORT ANSWER QUESTION IS LIMITED TO A MAXIMUM OF 700 WORDS TYPED OR FOUR (4) PAGES HANDWRITTEN, THOUGH YOU MAY BE ABLE TO ANSWER IN FEWER PAGES. THE ANSWER TO EACH VERY SHORT ANSWER QUESTION IS LIMITED TO A MAXIMUM OF 250 WORDS TYPED OR ONE**

(1) PAGE HANDWRITTEN, THOUGH YOU MAY BE ABLE TO ANSWER IN FEWER PAGES. However, length is not necessarily better in any of your responses. You should aim to draft a well-structured answer with proper support, regardless of length. **Each answer must be self-contained. Do not “incorporate by reference” any material from one answer to another.** Some questions are made up of multiple subparts. You are not required to answer the subparts in the order in which they appear or to label the portions of your answer accordingly, though you may choose to do so if it helps to write a coherent and persuasive answer. The answer to each question must begin on a new page. Put page numbers on all answer sheets. **ANSWERS OR PORTIONS OF ANSWERS NOT CONFORMING TO THESE INSTRUCTIONS MAY BE DISREGARDED OR PENALIZED. ANSWERS THAT EXCEED ANY APPLICABLE PAGE OR WORD LIMITS WILL BE PENALIZED.**

7. This is a CLOSED book examination. You are NOT allowed to bring or refer to any items during the test. You are NOT allowed to refer to any items during any breaks in the exam or any time outside the exam room.

8. This is an INDIVIDUAL examination. You are NOT allowed to give or receive assistance from anyone, including any other student. You are NOT allowed to tell any student anything about this examination or identify the topics it does (or does not) cover. Please remember that, due to exam re-scheduling, there is a possibility that some students will take the exam before or after other students. Therefore, any discussion or other communication about this examination or any of its contents might create an Honor Code violation.

9. The Honor Code applies to this in-class examination. You must perform all work on your own and abide by the instructions on this page.

FORMATTING INSTRUCTIONS

BLUE BOOK USERS: If you hand write your answer, please leave the space to the left of the red line on each page BLANK (except for the occasional note that you might add to your answer as an afterthought). If you use more than one blue book, please:

- (1) write “ANSWER CONTINUED IN ANOTHER BLUE BOOK” at the end of each blue book other than the last; and
- (2) **place your exam number on the cover of each blue book.**

COMPUTER USERS: If you use your computer, please use **12 point Times New Roman** font. If Times New Roman is not available for some reason, please use at least 12 point font in a simple type style.

OTHER FORMAT MATTERS: There is no page or word limit on the response to the long essay question. There is, as indicated above, a 700-word typed or four-page handwritten limit to the response to each short answer question and a 250-word typed

or one-page handwritten limit to the response to each very short answer question. You may be able to answer adequately in less space.

Your answer must be contained within the blue book(s) or within your computer answer. You are NOT allowed to turn in scrap paper or any other supplement to your blue book(s) or computer answer.

JURISDICTION: The facts outlined in the questions occurred in an UNKNOWN jurisdiction. In answering the question, you may analyze, apply and discuss any of the (sometimes) multiple versions of the law that you studied this semester. You can receive additional credit by stating and applying multiple versions of the legal principles involved in any particular question.

ADVICE ABOUT ANSWERING THE ESSAY QUESTIONS: Do not spend too much time on any one issue/sub-issue, but do not be overly conclusive in discussing a particular subject. An answer that correctly and completely analyzes an issue will receive a higher score for that issue than an answer that incorrectly or incompletely analyzes that issue. However, the essay questions will give rise to a number of different discussion points. Therefore, do not let yourself get too bogged down in any single discussion. Also, be sure to address all relevant issues raised by the facts, even if you think a single issue is dispositive of the case. Finally, please note that your discussion of a certain problem (i.e., correct statements of the law, critical analysis of the legally contentious elements and application of the law to the relevant facts) is more important than your ultimate answer regarding the outcome of the dispute on that issue.

I have attempted to provide sufficient facts for you to analyze these issues. However, if you believe you need to know more information in order to resolve an issue raised by the facts given, state what information you need to know and how it would affect your analysis. Do NOT add facts to create issues not already raised by the facts given. Do NOT make implicit assumptions.

ADVICE ABOUT ANSWERING THE VERY SHORT ANSWER QUESTIONS: Be very direct in your response while still being as detailed as possible. Use of terms of art may help with brevity. Concise references to legal authority will benefit you here, as in other portions of the examination.

SUPPLEMENTAL ADVICE FOR THOSE WHO WISH THEY HAD MORE TIME OR SPACE: Please note that you CANNOT turn in scrap paper or other supplements to your answer. Your answer must be contained within your blue book(s) or standard typed answer.

If you find yourself about to run out of time or space, you may wish to start writing bullet points or other abbreviated phrases at the end of your answer. Although abbreviated bullet points probably will not receive as much credit as properly well-written responses regarding the same issues, they will be given some credit if they

indicate a correct recognition of the legal issues raised by the facts and a correct, though presumably truncated, application of the law to the facts.

Good luck!

Long Essay Question
(33% of the final exam mark)

Bill and Yvonne have been married for over thirty years and have three children, Linus, Kate and Phil. Linus and Kate are twins, and Phil is several years younger.

When Linus got married in June 2000, Bill gave Linus \$20,000 along with a short note stating:

I am very proud of you and believe in your future. I am giving you an early payment of \$20,000 to be considered part of your inheritance. /s/ Bill

In December 2000, Kate got married. Bill also gave Kate \$20,000, but did not give her a note like the one he gave Linus. In January 2001, Kate sent Bill a short note saying:

Thanks, Dad, for the \$20,000 gift. I'm going to use it to pay off part of my student loans. /s/ Kate

Phil was due to get married in June 2007. While traveling to Phil's wedding on June 1, 2007, Bill, Yvonne and Linus were in a car wreck. Bill was killed instantly. Yvonne died on June 6, 2007, as a result of the injuries she sustained. Linus died on June 20, 2007.

At the time of their deaths, Bill and Yvonne owned the following property:

1. \$150,000 in a savings account held in Bill's name.
2. \$75,000 in ABC stock, titled in Yvonne and Kate's names, jointly with a right of survivorship.

Linus is survived by his wife, Judith, and his two children, Sam (10) and Pam (8). During probate proceedings, a woman named Nancy comes forward with a three year-old child (Martha) she claims is Linus's. Nancy says Linus visited Martha semi-regularly. Nancy never sought child support. She is willing to have Martha take a DNA test.

Kate has hired you to provide her with legal advice on the following questions:

- A. Do the notes from Bill to Linus and Kate to Bill have any legal significance?
- B. Who is entitled to receive a share of the \$150,000 savings account? For each person or estate, identify the amount they are entitled to receive.
- C. Who is entitled to receive a share of the \$75,000 ABC stock? For each person or estate, identify the amount they are entitled to receive.

Prepare a brief memorandum to Kate in response to her questions and explain your legal rationale, with supporting authority as appropriate.

Short Answer Question 1 of 2
(11% of the final exam mark)

Ted and Alice were married for over thirty years and had two children, Jack and Jill, who are twins. Before Jack and Jill were born, Ted and Alice had a daughter named Hillary who survived only three days before dying. For some time after Hillary's death, Alice was distraught and convinced that Hillary had been snatched from her hospital cot. When Alice became pregnant with the twins, she stopped talking about Hillary and never mentioned her again.

Ted died several years ago. This past winter, Alice went on an exotic holiday to Brazil, where she contracted yellow fever and died. Because Jill won the lottery a few years back and is independently wealthy, Alice's will – which seems to be the only one made by Alice – gives a few keepsake trinkets to Jill (i.e., some family silver and an heirloom ukulele) but gives Jack “the rest and residue of my estate.”

When collecting Alice's estate, you find a ruby necklace – valued at \$30,000 – located in Alice's safety deposit box.

Along with the necklace is a short note written by Alice in her distinctive, nearly illegible script (Alice was a law professor for many years, which ruined any ability she might have had to write anything clearly). The note stated as follows:

When I die, I want my daughter, [the name here is not quite readable, but the last three letters look like “__ill”], to have my ruby necklace. /s/ Alice

The note is undated and is not signed by anyone else.

Jill has come to your law firm, asking for legal advice as to who is entitled to the ruby necklace. The senior partner on the case has asked you to draft a short memorandum outlining the various legal issues that will require further research and consideration. Include your tentative conclusions and rationales to the extent possible in the time available. The most important thing for the senior partner in this memorandum is the identification of relevant issues, though of course you will need to say why they are relevant.

Short Answer Question 2 of 2
(11% of the final exam mark)

A new client, Edith Elderly, comes to you for some advice. Edith is a spry 73 years of age, though she is beginning to show signs of slowing down. When making small talk with her, it comes out that she's had an increasing number of ailments over the last few years, though she laughs them off when you ask about details. She also occasionally seems a bit confused about things, though there is no doubt in your mind that she has testamentary capacity. Edith, a widow with middle class means, has two grown children and three grandchildren. She comes to you with the simple plan of splitting her estate equally between her two children. Edith does not want to do anything complicated like setting up a trust. Are your tasks limited to drafting a simple will for Edith? What else might you do for her and why?

Very Short Answer Questions
(each question is worth 5% of the final exam mark)

- a. Define the doctrine of cy pres and when it should or should not be used.
- b. Describe how and when a private trust can be modified.
- c. Define equitable adoption and the elements necessary for its use.
- d. Distinguish abatement and ademption and identify any rules of priority that relate to either concept.
- e. Define the doctrine of dependent relative revocation and its primary use.
- f. Contrast the benefits of a support trust and a discretionary trust.
- g. Define the rule of convenience and its importance in probate proceedings.
- h. Describe when a pretermitted child will take a portion of his/her parent's estate.
- i. Identify one way in which Missouri law differs from the Uniform Probate Code or typical provisions of the common law in other jurisdictions. This response can rely on information found in the textbook or presented at any one of the group presentations.

END OF EXAMINATION QUESTIONS